Arendt Lunchbreak Lecture

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29 September 2022

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Agenda

- **Alternative Anlageklassen** und Nicht-Professionelle Anleger: Strukturierungs- und Vertriebsalternativen – Adrian Aldinger

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- Rechtliche und steuerliche Behandlung von **Luxemburger Verbriefungsstrukturen** und Neuerungen des geänderten **Verbriefungsgesetzes**

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Alternative Anlageklassen und Nicht-Professionelle Anleger: Strukturierungs- und Vertriebsalternativen

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Fund distribution in the EU

Marketing a Luxembourg retail AIF to non-professional investors

	Local placement of foreign AIFs to retail investors Art 43 AIFMD(1)	AIFMD marketing passport procedure applicable to non-professional investors Art 32 AIFMD(1)(2)
Austria	Feasible under conditions	Min. 100,000 EUR
Belgium	Feasible under conditions	Min. 250,000 EUR or 100,000 EUR
Denmark	Available and feasible	Min. 100,000 EUR
Finland	Available and feasible	Not feasible or not available
France	Not feasible or not available	Not feasible or not available
Germany	Feasible under conditions	Min. 200,000 EUR
Ireland	Available and feasible	Not feasible or not available
Italy	Feasible under conditions	Min. 500,000 EUR or 100,000 EUR
Luxembourg	Available and feasible	Not feasible or not available
Netherlands	Available and feasible	Not feasible or not available
Norway	Feasible under conditions	Not feasible or not available
Spain	Feasible under conditions	Not feasible or not available
Sweden	Available and feasible	Not feasible or not available

Available and feasible

Feasible under conditions

Not feasible or not available

(1) Indicative information subject to local law advice
(2) Local conditions apply, including minimum subscription as indicated above

Potential extension of AIFMD marketing passport
Regulatory outlook: extension of marketing passport?

Currently, the AIF marketing passport may only be used for marketing to professional investors (an investor who is considered as a professional client or may, on request, be treated as a professional client
under MiFID II)

It is now suggested to extend the AIFMD passport regime to a broader investor base.

Extension of the “professional investor” definition under AIFMD? **or**
Introduction of a “semi-professional” status under AIFMD?

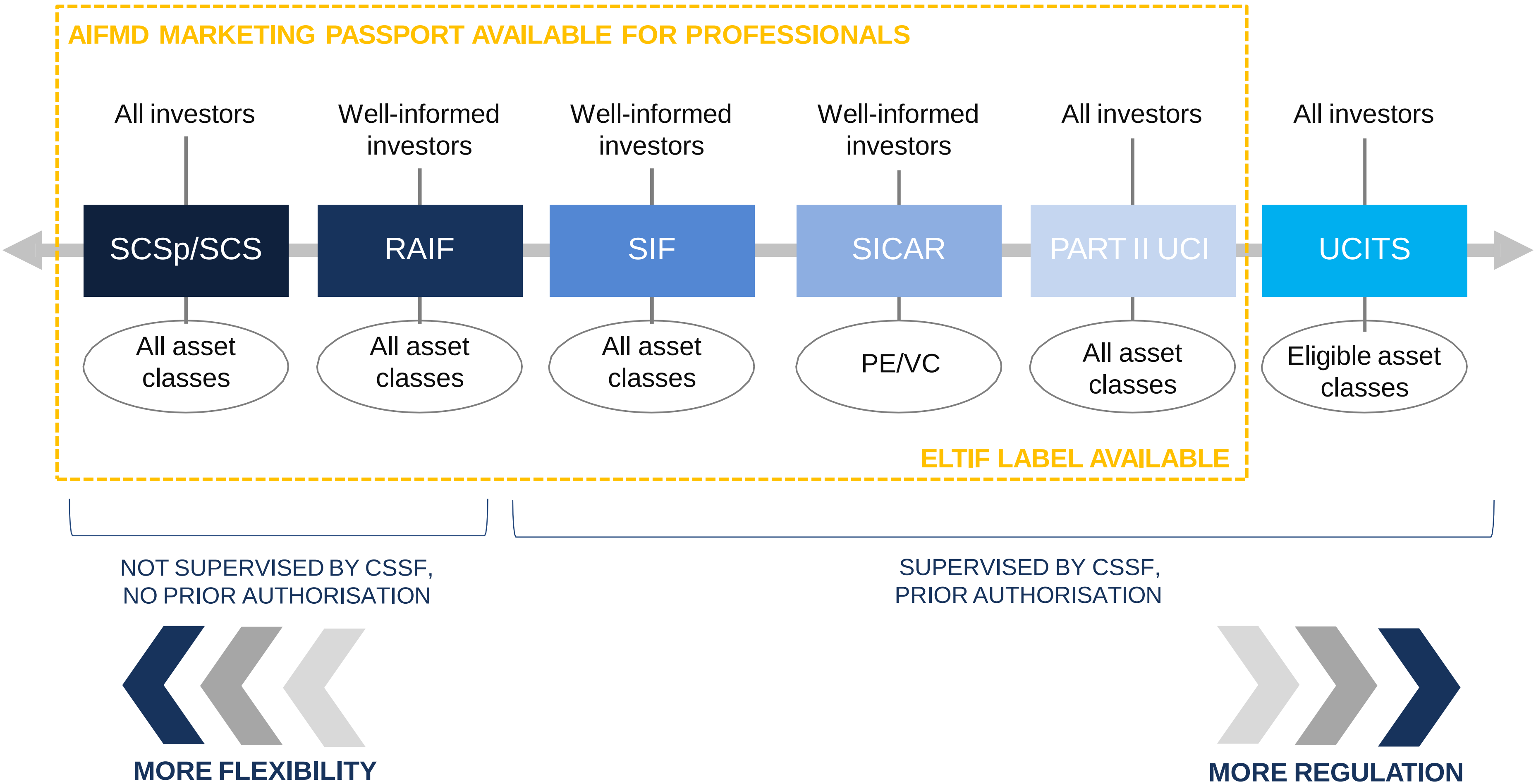
Potential elements of the extended marketing passport under AIFMD II:

An investor:

- which has committed to investing a minimum of EUR 100,000 and has stated in writing, in a separate document from the contract to be concluded for the commitment to invest, that they are aware of the risks associated with the envisaged commitment or investment; **or**
- which is a member of senior staff, portfolio manager, director, officer, agent or employee of the manager or of an affiliate of the manager and has sufficient knowledge about the AIF concerned.

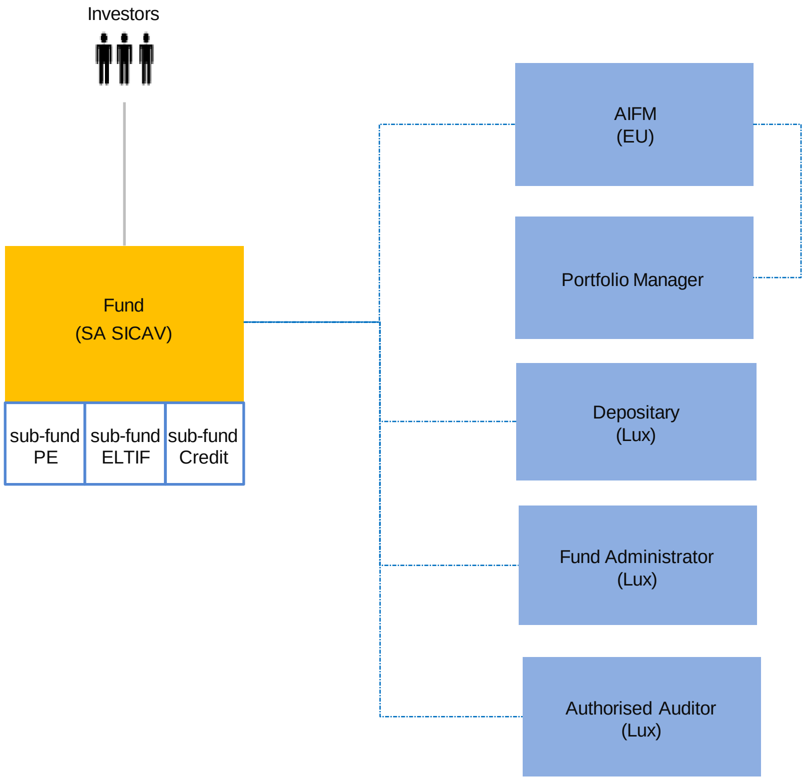
Fund structuring: Luxembourg solutions

Luxembourg fund structuring toolbox



Fund structuring: Luxembourg solutions

Example: retail AIF private markets platform (Part II fund)



Main characteristics

- The Fund qualifies as an AIF under AIFMD and it is structured as a Part II fund (Luxembourg UCI law) in the form of a SA SICAV.
- The Fund comprises multiple compartments. Assets and liabilities are segregated under Luxembourg law. Each compartment has its own investment strategy.
- The Fund has obtained the ELTIF label in respect of one of its compartments.
- The Fund is managed by its board of directors (generally 3-5 directors).
- The Fund will appoint a fully authorized AIFM responsible for risk and portfolio management and other functions as agreed.
- The Fund may be marketed to professional investors in the EEA under the AIFMD marketing passport and to retail investors under local rules, where permitted
- Additionally the ELTIF compartment may be marketed to retail investors in the EEA under the ELTIF regime.
- All asset classes are permitted under the UCI law, thus allowing to offer a comprehensive investment platform across all private markets in a single legal structure.

Rechtliche und steuerliche Behandlung von Luxemburger Verbriefungsstrukturen und Neuerungen des geänderten Verbriefungsgesetzes

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