

# Managers warm to new Sicar rules

By Olivier Sciales and Rémi Chevalier

A series of changes implemented in 2008 to the legislation governing Luxembourg's dedicated private equity vehicle, the risk capital investment company or Sicar, appear already to be bearing fruit. The new rules are helping to consolidate the position as a major European centre for the private equity industry that Luxembourg has enjoyed since the introduction of the Sicar six years ago, even at a time when the sector is battling to adapt to a much-changed economic and financial environment.

The legislation of October 29, 2008 allows promoters of private equity funds to create segregated compartments in a Sicar, putting the vehicle on the same basis as the country's other lightly-regulated investment vehicle, the Specialised Investment Fund or SIF. The changes have renewed the interest of promoters in the Sicar as the favoured vehicle for private equity funds because unlike the SIF, which was introduced in February 2007 and is also used for hedge and real estate funds, it is not subject to risk diversification rules.

Sicars and SIFs are part of a broad spectrum of investment vehicles available in Luxembourg that also includes unregulated structures such as the financial participation company (Soparfi), securitisation vehicle and private wealth management company (SPF), as well as more closely supervised fund structures such as Ucits and undertakings for collective investment established under part II of the grand duchy's fund legislation.

In the past the private equity industry has also used Soparfis, but since their introduction under legislation of June 15, 2004 Sicars have become the vehicle of choice for investments that meet the regulator's definition of risk capital, because of their greater flexibility and the fact that they are regulated. Notably Sicars are fully taxable companies - although all income from



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transferable securities is exempt - and thus can in principle benefit from Luxembourg's network of double taxation treaties.

With its requirement for funds to have a locally licensed administrator and custodian, Luxembourg is now benefiting from global concerns over standards of regulation, oversight and transparency that are prompting many alternative investment managers to launch their funds in established and well-regulated jurisdictions.

Luxembourg and its private equity industry has long benefited from its access to talented professionals, including cross-border commuters from Belgium, France and Germany. The jurisdiction also offers an attractive tax environment for financial and other companies, an important consideration as tax burdens rise in other European countries.

In May this year, the Luxembourg regulator, the Financial Sector Supervisory Authority (CSSF), issued new guidelines on its web site ([www.cssf.lu](http://www.cssf.lu)) regarding the information to be provided by promoters seeking a licence to launch a Sicar. The questionnaire, which the regulator expects usually to be prepared by a legal adviser to the Sicar, represents the minimum requirements for the CSSF, which may request additional information during processing of the application.

Over the six years since Sicars were introduced, almost 250 such funds have been launched and the vehicle has become a recognised brand among promoters of private equity firms worldwide. While the European and global fund industries have experienced extreme turbulence over the past couple of years, the successful revision of the Sicar legislation is proof of Luxembourg's ability to meet the evolving requirements of the private equity sector now and in the future. ■