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cutting through complexity

NEWSLETTER SPRING 2014

Real Estate & Infrastructure Luxembourg

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Foreword

People will always invest in property: there's something about bricks and mortar which inspire real trust. At a time when interest rates are low, the draw of Real Estate and having an asset which is tangible – or dare I say real – is of great comfort. The upward trend that we're seeing in the Real Estate industry in Luxembourg pays testament to this.

Opportunities are opening in new places and sectors. While banks are busy offloading their debt portfolio at bargain prices, private equity and real estate are increasingly snapping this debt up. In addition, former no-go zones are also getting some attention (see our article on page 15 explaining how Spain may be back on the radar).

The range of choices for structuring is also growing with the new Luxembourg Limited Partnership which seems increasingly attractive for German investors. To be able to navigate through these, learn about our new regulatory scout service (see under announcement page 19) by keeping track of regulation and unlocking hidden opportunities.

Luxembourg has always been good at structuring Real Estate investments and it's still as attractive as it used to be. We have a good balance between facilitating investment structures and organizing fund set-ups and I believe this newsletter – put together by our team of experts and specialists - will give you a flavour of both.

Enjoy reading,

Pierre Kreemer
Head of Real Estate & Infrastructure

THE LUXEMBOURG REAL ESTATE MARKET: UNDER THE MICROSCOPE

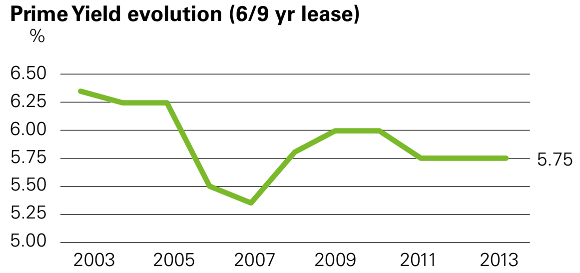
Although Luxembourg may be faring better than many of its neighbours, it has not been entirely immune to the economic downturn within the Eurozone. Muted growth and rising unemployment are clear manifestations of the continent-wide trend that is set to continue into 2014.

The Real Estate market, however, has weathered the downturn well, proving to be stable in the face of an uncertain macroeconomic environment. The investment, retail and office markets are each seeing the green shoots of recovery. Read on to find out more …

Prime time

After a rocky 2012, Real Estate investments were back on track in 2013 with growth of 62% on previous year. Prime investments continue to offer healthy returns: office prime yields have hovered around the 5.75% mark over the past two years. Potential investors are consequently keeping a close eye on the prime market, improving the overall outlook for the year to come – despite the gloomy macroeconomic indicators.

Prime Yield evolution (6/9 yr lease)



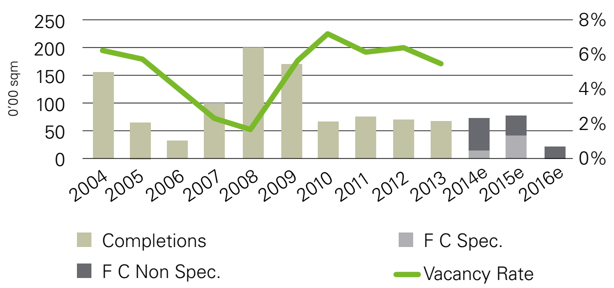
Source: Jones Lang LaSalle Research

Talking offices

On the subject of office investments, activity in this area has been encouraged by Luxembourg's low vacancy rates. According to Jones Lang LaSalle, vacancies are at a five year low – with the rate now at 5.1% compared to 6.5% a year ago. A note of caution is given, however, as the drop in the working population coupled with a number of new building completions scheduled later this year are due to have an adverse effect on this indicator by 2015.

The positive trend in 2013 was not limited to vacancy rates: the office market performed very well overall. Take-up increased by 2.8%, with the finance sector accounting for the largest share, closely followed by the insurance and pensions sectors.

Completions, Pipelines and Vacancy



Source: Jones Lang LaSalle Research

Retail landscape

The retail landscape – which is generally buoyant – is unchanged since last year. Turnover continued on its upward trajectory, high street retail prime rents remain resilient and the density of shopping centres per inhabitant is high. BNP Paribas reported that the most significant sale of 2013 was that of Knauf Pommerlaiuch, a shopping centre based outside the city centre.

News around Europe

Tax

Taxation of Real Estate Investment Trusts – The rising star

Editor's pick

The Real Estate Investment Trust (REIT) has fast become the rising star of European real estate. Common in the US since the 60s, this security was virtually off the radar in Europe until a decade ago. Now a portfolio staple in the UK, REITs have also enchanted French and German investors and have most recently been introduced in Ireland. This all begs the question, could 2014 be Luxembourg's year?

Give it a second thought

Up until now, REITs have been a distant dream for Luxembourg. However their growing popularity elsewhere indicates that we should be giving greater thought to the REIT regime and the advantages it brings. The appeal of this security, which sells like a share in the stock exchange but invests directly in property or mortgages, lies in its liquidity, transparency as well as the special tax considerations it often receives. A recent KPMG report gives an overview of the latter, allowing easy comparison between the taxation of REITs around the world.

Given its tax efficiency, we should expect REITs to be used more in the context of structuring real estate funds in the future. I'll be interested to see whether Luxembourg will remain on the sidelines watching REITs rise elsewhere or will finally join its neighbours and legislate. 2014 may be the year of the horse in China, but I sincerely hope it will be the year of the REIT in Luxembourg.

Further reading

Our KPMG Global report Taxation of Real Estate Investment Trusts provides an overview of the REIT regimes in Europe, Asia and the Americas.

Tax policy statement from the new Luxembourg Government

On 2 December 2013, the new Luxembourg Government released its political program. There are a certain number of positive tax reform proposals in the program. This program is not binding as such, but it does confirm the Governments' political commitment to ensuring a competitive Luxembourg tax framework. It also supports the OECD's work on BEPS and European initiatives aimed towards tax transparency.

One can only welcome the fact that the Luxembourg Government is committed to taking steps to further enhance the country's attractiveness. However, it should be kept in mind that these proposals define the views and projects of the new Government at this point in time, and whether or not they will be implemented as well as the possible timing, still remains to be determined.

To read more about the Tax policy statement from the new Luxembourg Government please follow the link.

Increase of VAT rates

On 14 January 2014, the Luxembourg Finance Minister confirmed a 2 percent increase for the main VAT rates (15 to 17%, 12 to 14% and 6 to 8%), whereas the 3% rate applied on basic necessity products shall remain unchanged. The new rates would not apply before 2015, though this is still under discussion at Government level.

Luxembourg tax treaty network – update

Luxembourg further expands its Asian tax treaty network by concluding a tax treaty with Laos which is expected to become effective very soon. New tax treaties with the Republic of Korea were entered into force in September 2013. Further to this, treaties with Kazakhstan, Macedonia, the Seychelles and Tajikistan entered into force on 1 January 2014.

Luxembourg has bilateral tax treaties with all EU Member States and with a number of other countries, including almost all OECD Member States. This network of tax treaties is constantly being expanded.

Please visit our website to review the treaties in force as well as those currently pending ratification.

For more details on new tax treaty, please click on the respective flag

Republic of Korea

Seychelles

Kazakhstan

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FRANCE

Overview of year-end tax changes: Finance Act for 2014 and Corrective Finance Act for 2013

Tax legislative packages in France - known, in English, as the "Finance Act for 2014" and the "Corrective Finance Act for 2013" - were approved by the French Parliament on 19 December 2013; scrutinized by the Constitutional Court on 29 December 2013; and eventually enacted into law on 30 December 2013.

Several important measures, as passed by the French Parliament, were invalidated by the Constitutional Court (Conseil Constitutionnel).

Like the previous Finance Acts for 2012 and 2013, most of the recent legislative changes concerning the taxation of companies aim to reduce a budget deficit by focusing on the taxation of large corporate taxpayers. The new legislation also focuses on the tax treatment of indirect transfers of profit.

The essential measures that are of interest to corporate taxpayers and businesses are as follows:

- The Finance Act for 2014 introduces a new limit on the deductibility of interest on loans obtained from (French or foreign) related parties,
- A mandatory provision is to be accounted for that relates to the costs to the French tax authorities during a tax audit for the companies' day to day accounting and consolidated annual accounts,
- Obligation to include rulings from foreign tax authorities in the transfer pricing documentation to be disclosed to the tax authorities in favor of related group entities,
- Increase in the rate of the temporary corporate income tax (CIT) surcharge from 5% to 10.7%. As a consequence, the effective maximum CIT rate now reaches 38%,
- The rates of value added tax (VAT) in France, effective 1 January 2014, are as follows:
  - The standard 19.6% VAT rate has increased to 20%.
  - The intermediary 7% VAT rate (applicable to the food service industry, work performed on residential properties, domestic passenger transport, the hotel industry, drugs authorized for marketing but not covered by social security, etc.) has been increased to 10%.

For more information, read Fidal* newsletter

**Fidal is an independent legal entity that is separate from KPMG International and its member firms.*

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GERMANY

A Christmas gift for the real estate industry?

It is amazing how quickly the legislature allows a tax law to come into force, if the political will is there.

The law for adaptation of the Investment Tax Act, and other laws pertaining to the AIFM Implementation Act 1 were promulgated on 23 December 2013. Earlier, the newly elected parliament--just before the new government formation--had decided on the corresponding law as part of one of its first legislative measures. After the agreement of the Federal Council, the law was able to come into force on Christmas Eve 2013.

This ended the period of uncertainty regarding the tax treatment of securities funds (UCITs) and alternative investment funds (AIFs). This treatment was caused by the replacement of the Investment Act with the German Capital Investment Code. If the Tax Adaptation Act would not have been adopted, there would have been at least an uncertainty regarding the taxation of fund investments since 22 July 2013. This uncertainty would, in turn, have led to significant tax risks at the level of all participants throughout the fund industry, both domestically and internationally.

What changes will it bring for the real estate industry? First it must be acknowledged that the fund structures existing up until 22 July 2013, will continue to be taxed according to the applicable rules in force until 22 July 2016. New fiscal years starting after summer of 2016 will be subject to the new regulation, just like the fund structures that were newly established since the promulgation of the law. The new regulations comprise some crucial points, especially for foreign real estate AIFs. The law--regardless of the qualification of an AIF according to the criteria of the German Capital Investment Code--establishes its own criteria for the continuous use of transparent taxation on investment funds at the investor level.

In particular, the question of the tax impact on the active management of real estate remains unanswered. While the active management for indirect investments through companies is supposed to be harmless, the legislator seems to consider such activities for real estate properties, which are held directly by the AIF, not compatible with the requirement of a passive asset management. Furthermore, a start-up phase to build up a portfolio without a tax impact doesn't seem to be reflected. If you take the law literally, the principle of risk diversification requires an investment in more than three assets with different investment risks as early as the beginning of the AIF. This poses risks for real estate AIF that do not manage to make the required number of investments in the first year.

All AIF can only make use of the tax transparency if they are subject to investment supervision and if the investor is granted an annual right to redeem shares. This is especially a challenge for foreign fund structures that were previously designed with a fixed maturity, i.e. without a redemption right. Here, the structures must be adapted, which might impact the basis of the AIF. In addition, the debt ratio for real estate AIF is limited to 50 percent. Foreign fund structures typically work with higher quotas; therefore it must be adjusted accordingly in order to qualify as a tax-preferred AIF.

If these requirements are not met by the AIF, they are qualified as a capital investment company and are subject to taxation. Foreign AIF with domestic real estate becomes subject to German taxation on earnings. Their distributions are considered dividends and, according to the Double Taxation Convention (DTC), tax-exempt property income is thereby subject to a secondary taxation at the investor level. The normal tax provisions for shares in incorporated companies are applied to the redemption or sale of shares without the ability to collect the capital gain tax-free according to the tax-exempt foreign properties under the DTC.

However, it is positive to note that the legislature was able to adjust the investment tax law to the new legal status of the capital investment law shortly before the end of the year. Nevertheless, with regard to the requirements of the new investment fund concept, it still requires clarification, which will hopefully be addressed quickly by the tax authorities. Foreign AIF must adapt to this new legal status to ensure that, from a tax perspective, they remain attractive to German investors.

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Accounting

Modernization of the Luxembourg accounting environment

The law of 30 July 2013, regarding the modernization of the Luxembourg accounting environment ("the Law") was published in the Memorial dated 2 October 2013 and is applicable from 5 October 2013 onwards.

The new law has the following three aims:

- To confirm the structure of the Luxembourg Accounting Standard Committee ("Commission des Normes Comptables"),
- To modify and refine certain provisions pertaining to the annual and consolidated accounts of undertakings, and
- To provide a legal framework for the determination of distributable reserves when either IFRS or the fair value accounting option is applied.

Non-distributable reserve: Concept and calculation method

The reform of the accounting law and the law of commercial companies seeks to allow companies to opt for the fair value measurement method. Under the existing accounting law, assets can be measured using the fair value option available where fair value is permitted under IFRS. This option is applicable for companies preparing their accounts in accordance with legal and regulatory requirements and generally accepted accounting principles in the Grand Duchy of Luxembourg ("Lux Gaap"). The unrealized changes in the fair value could either be booked initially to a non-distributable reserve, or allocated to a non-distributable reserve when allocating the result for the financial year. The entity in question must account for deferred tax liabilities on its balance sheet if using the fair value option; working on the assumption that a tax generating transaction will take place upon realization of the balance sheet item.

The non-distributable reserve should not, subject to some exceptions, be:

- distributed or considered as a share capital increase through the incorporation of reserves,
- allocated to the legal reserve,
- created from a non-distributable reserve related to acquisition of its own shares,
- created from a non-distributable reserve related to the financial assistance granted for the acquisition of its shares by a third party,
- created from a non-distributable reserve related to the issue of redeemable shares,
- assessed with losses exceeding of 50% or 75% of the subscribed capital.

Companies should therefore keep track of the unrealized gains resulting from the changes in fair value as well as the resulting tax implications.

Entities which opt for the fair value option will need to amend the accounting policies and the notes relating to the assets fair valued in their financial statements, in order to especially reflect the significant assumptions underlying the valuation models and techniques where fair values have not been determined.

CSSF: Press release in relation to the new law of 30 June 2013

There is an obligation for professionals of the financial sector ("PFS") who are supervised by the CSSF and who are publishing their annual accounts under Lux GAAP to file their annual accounts in accordance with the new law of 30 June 2013 with regard to the layout of their balance sheet and income statement.

Audit/ IFRS

Be prepared for forthcoming IFRS

Effective dates of IFRS in the EU and outside the EU*

Nature of development	IFRS Standard	Title	Publication date		Effective dates (for FY starting on)	
			IASB	EU	IASB	EU
New standards	IFRS 9	Financial Instruments and subsequent amendments	12.11.2009	postponed	01.01.2017	postponed
	IFRS 10	Consolidated Financial Statements	12.05.2011	29.12.2012	01.01.2013	01.01.2014
	IFRS 11	Joint Arrangements	12.05.2011	29.12.2012	01.01.2013	01.01.2014
	IFRS 12	Disclosures of Interests in Other Entities	12.05.2011	29.12.2012	01.01.2013	01.01.2014
	IFRS 13	Fair Value Measurement	12.05.2011	29.12.2012	01.01.2013	01.01.2013
	IFRS 14	Regulatory Deferral Accounts	30.01.2014	Q1 2015	01.01.2016	postponed
Amendments	IAS 12	Deferred Tax: Recovery of Underlying Assets (Amendment)	20.12.2010	29.12.2012	01.01.2012	01.01.2013
	IAS 19	Employee Benefits (revised 2011)	16.06.2011	06.06.2012	01.01.2013	01.01.2013
	IAS 19	Defined Benefit Plans: Employee Contributions (Amendments to IAS 19)	21.11.2013	postponed Q4 2014	01.07.2014	postponed
	IAS 27	Separate Financial Statements (amended 2011)	12.05.2011	29.12.2012	01.01.2013	01.01.2014
	IAS 28	Investments in Associates and Joint Ventures (amended 2011)	12.05.2011	29.12.2012	01.01.2013	01.01.2014
	IAS 32	Offsetting Financial Assets and Financial Liabilities (Amendment)	16.12.2011	29.12.2012	01.01.2014	01.01.2014
	IAS 36	Recoverable Amount Disclosures for Non-Financial Assets	29.05.2013	20.12.2013	01.01.2014	01.01.2014
	IAS 39	Novation of derivatives and Continuation of Hedge Accounting	27.06.2013	20.12.2013	01.01.2014	01.01.2014
	IFRS 1	Severe Hyperinflation and Removal of Fixed Dates for First-time Adopters (Amendment)	20.12.2010	29.12.2012	01.07.2011	01.01.2013
	IFRS 1	Government Loans (Amendment)	13.03.2012	05.03.2013	01.01.2013	01.01.2013
	IFRS 7	Disclosures - Offsetting Financial Assets and Financial Liabilities (Amendment)	16.12.2011	29.12.2012	01.01.2013	01.01.2013
	IFRS 7 IFRS 9	Mandatory Effective Date and Transition Disclosures (Amendment)	16.12.2011	postponed	01.01.2017	postponed
	IFRS 7-9 IAS 39	Hedge Accounting and amendments	19.11.2013	postponed	01.01.2017	postponed
	IFRS 10-11-12	Transition Guidance of IFRS 10, 11 and 12 (Amendments)	28.06.2012	05.04.2013	01.01.2013	01.01.2014
	IFRS 10-12 IAS 27	Investment Entities (Amendments)	31.10.2012	21.11.2013	01.01.2014	01.01.2014
	diverse IFRS	Annual improvements to IFRSs 2009-2011	17.05.2012	28.03.2013	01.01.2013	01.01.2013
		Annual improvements to IFRSs 2010-2012	12.12.2013	postponed Q4 2014	01.07.2014	postponed
		Annual improvements to IFRSs 2011-2013	12.12.2013	postponed Q4 2014	01.07.2014	postponed
Interpretations	IFRIC 20	Stripping Costs in the Production Phase of a Surface Mine	19.10.2011	29.12.2012	01.01.2013	01.01.2013
	IFRIC 21	Levies	20.05.2013	postponed Q4 2014	01.01.2014	postponed

*Status as of 11 February 2014

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Principle of highest and best use: will this change how properties are valued?

Effective 2013, fair value measurement of investment properties is no longer defined under IAS 40 but rather under the new IFRS13, Fair Value Measurement.

IFRS 13 introduced the so called 'Highest and best use' for non-financial assets. This refers to the use of market participants that would maximize the value of the asset or the group of assets and liabilities with which the asset would be used.

Though seemingly onerous, this new term, would only apply if it is physically possible, legally permissible and financially feasible to maximize value.

In addition, you can expect more disclosures in 2013 IFRS financial statements on the assumptions and estimates used by management in valuing properties at their fair value.

If private equity investors are happy, do real estate investors share the same sentiments on the new consolidation relief for investment entities?

Finally, the EU has endorsed the Investment Entities (Amendments to IFRS 10) in November 2013, which will take effect for annual periods beginning 1 January 2014. The main impact of this amendment is that entities qualifying as investment entities are required not to consolidate their investments but rather to show those investments at fair value.

The essential elements that an entity must meet in order to qualify as an investment entity are:

- providing investment management services,
- generating returns solely from capital appreciation and/or investment income, and
- measuring and evaluating its investments on a fair value basis.

Therefore, if you are used to receiving consolidated financial statements, now is the time to talk to your investees on whether this would apply to them as it may impact your investment decisions.

Did you know that financial regulators have an IFRS wish list?

On 8 January 2014, the CSSF published the following list of issues they will review during its 2014 enforcement activities:

- impairment of non-financial assets,
- fair value measurement and disclosures*,
- measurement and disclosure of post-employment benefit obligations.
- financial instruments and disclosures of related risks,
- disclosures related to significant accounting policies, judgments and estimates,
- new standards on consolidation (IFRS 10, 11 and 12), and
- other newly issued or modified standards and interpretations that are not yet effective.

**CSSF will focus on the methods and assumptions used to calculate the fair value of real estate investments including the relevant IFRS 13 disclosures.*

Regulatory

EMIR in a nutshell…

EMIR is the Regulation (EU) No. 648/2012 on over-the-counter (OTC) derivatives, central counterparties and trade repositories which entered into force on 16 August 2012. It is the direct response to a G-20 leaders' commitment to establish a strong regulatory framework for derivative contracts.

EMIR applies to all financial and non-financial counterparties established in the EU that enter into derivative contracts. In a nutshell, all companies have to comply with this regulation imposing at least:

- Appropriate risk mitigation techniques for non-cleared OTC derivatives, including regular portfolio reconciliation and dispute resolutions,
- Regular reporting of all derivative contracts to Trade Repositories (including back loading).

In general, these requirements also apply to intra-group transactions.

Furthermore, if a non-financial counterparty does not use a derivative for hedging purposes and if the non-financial counterparty concludes the derivative contract with a trading intent and exceeds a certain threshold regarding derivatives with trading intent, the following requirements have to be applied:

- Independent daily valuation and margin requirements for non-cleared OTC derivatives,
- Clearing obligations,

EMIR is more than "only" a new regulation. It has severe impacts on current business processes and models.

EMIR has already entered into force. In fact, financial as well as non-financial firms must take prompt action to analyze the impact of the regulation and to proceed with the necessary steps in order to develop a sound response. They should particularly consider that EMIR reporting is already effective for all counterparties since 12 February 2014.

Visit our EMIR website

AIFMD news

ESMA issues guidelines on reporting obligations under AIFMD

On 1 October 2013, ESMA published its final guidelines on reporting obligations under AIFMD. Since this date, recent communications from the CSSF – namely circular 14/581 and newly released updates to the AIFMD FAQs, 10 January 2014 – have shed light on reporting obligations providing much needed clarity for those embarking on the reporting journey.

Reporting obligations are expected to be one of the main cost drivers for AIFMs as the Directive requires fund managers to report extensive amounts of information to the regulators.

Next big step for Alternative Investment Fund Managers
The comprehensive data analysis requires AIFMs to fill in data fields which are the sum of many other different data fields. Most of the fields require dynamic data which is likely to change for each reporting period, such as the net asset value or risk measures. With the recently published CSSF update, even additional fields – such as the VaR, the Vega exposure and the portfolio`s sensitivity to a change in

FX rates or commodity prices – will be required when relevant, in line with proposals from ESMA's opinion on this topic.

But the complexity will come in knowing exactly what data to collect as AIFMs will have to look outside the traditional fund accounting system if they are to amass all the data necessary for report production. Broker, collateral and risk management figures are just three of many possible examples of additional data requirements. Further layers of complexity sum up when it comes to compiling this information: Where is the data located? In-house or with external parties? Is there any data missing? Who will be responsible for sourcing it?

In a recent survey conducted by KPMG on the use of Data and Analytics - Going Beyond the Data – Achieving actionable insights from data & analytics - it was noted that many organizations are still struggling with key components of becoming a data and insight-driven organization.

First reporting date to National Competent Authorities (NCA)

Following strong criticism from the industry, ESMA has taken a more flexible approach to the phasing in of AIFMD reporting obligations than its previous communication on this topic (previously ESMA had required all AIFMs in scope to report by 31 January 2014). ESMA now suggests that when determining the timing of their reporting obligations, AIFMs should take into account certain factors, such as their authorisation status.

In recent updates to its FAQs, the CSSF chose to adopt ESMA's guidelines regarding first reporting of already authorised AIFMs. This means that an AIFM authorized on 15 February 2014 with a quarterly reporting obligation has to submit its first reporting covering the period from 1 April 2014 to 30 June 2014 on 31 July 2014 at latest. In addition the AIFMs will have to prepare the reports for each AIFs in either quarterly, half-yearly or annually depending on factors such as the assets under management or value of the AIFM and submit it to the NCA no longer than 30 calendar days (45 days for fund of funds) after the end of the reporting period.

Insourcing or outsourcing?

Reporting is more complex than simple data collection and mapping. AIFMs must either develop (costly) internal data control processes to verify the completeness, consistency and accuracy of the data or outsource this task to specialized service providers.

As not all AIFMs business models are the same, an AIFMD reporting solution will require developing a high level of expertise in linking data from different databases (internal and external) and building complex data models. This all requires a deep understanding of the requirements combined with significant IT intelligence.

With extensive experience now under our belt insourcing the entire reporting process for KPMG clients, KPMG Luxembourg has built a full AIFMD reporting solution that could be tailored to AIFMs' size and volume of reporting required.

AIFMD reporting, the first step towards fully integrated data reporting?

This could also be an opportunity for many organizations to move to a fully embedded Data and Analytics strategy. This can be done by using the data gathered for regulatory reporting to create internal reporting for management and also for investor reporting purposes, thus creating value for the industry.

Other AIFMD development: Defining open-ended and closed-ended AIFs

On 17 December 2013 the European Commission adopted the Regulatory Technical Standards (RTS) to determine types of AIFMs and distinguish whether an AIFM manages open-ended or closed-ended AIFs, or both, to allow the AIFM to correctly

apply the specific liquidity management rules and valuation procedures to the different AIFs it manages.

An open-ended AIF is differentiated from a closed-ended AIF by the fact that it redeems shares from its investors prior to its liquidation or wind-down phase in accordance with a frequency and procedures that are set down in its offering document or instruments of incorporation. Any reduction in the capital of an AIF in line with its instruments of incorporation and any trading of an AIF on a secondary market should not be considered as a redemption of shares and should not render an AIF open-ended.

To take account for the fact that no harmonised definition of closed-ended AIFs existed in the EU prior to the AIFMD, the RTS clarify that AIFMs can benefit from the transitional periods in Articles 61(3) and (4) of the AIFMD and continue to manage without a license their closed-ended AIFs that are in an advanced or final stage of their investment cycle, if they manage closed-ended AIF that have not redeemed their shares for an initial period of 5 years.

39 Kennedy AVENUE

To stay up to date with the latest AIFMD developments, visit http://blog.kpmg.lu/tag/aif/

INREV

Will the new proposed INREV guidelines address investor concerns?

Back in October 2013, INREV has issued their Revised INREV Guidelines 2014 (White Paper) which was open for comments until December 2013.

Significant changes suggested in the White Paper are:

- Updates to the INREV NAV Calculation whereby fund managers are now required to adjust the NAV for the effect of the subsidiaries having a negative equity (non-recourse) when certain conditions are met and the fair value measurement of other investments in real estate and of construction contracts, and
- Updates to Reporting Requirements whereby this has been simplified to reflect what the industry wants and to be aligned with regulatory requirements such as AIFMD and recent trends in investor reporting.

It is expected that INREV will release the 2014 Guidelines during its annual conference in April 2014 with restrospective application beginning 1 January 2014.

Until then, it is now the time to revisit how this would impact your internal processes especially in obtaining relevant information in order to comply with this impending requirement and how this would satisfy the information needs of your investors.

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Here's your chance to get your voice heard!

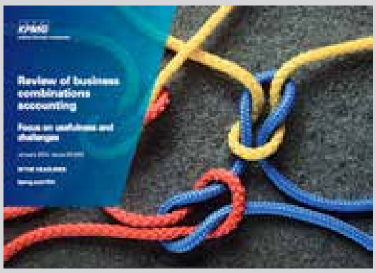
On 30 January 2014, IASB as part of its post-implementation review of IFRS 3 Business Combination published its Request for Information (RfI) on your experience in implementing this standard.

One of the issues included in the RfI is the definition of a business, e.g. How difficult is it to distinguish a business from a group of assets? Is it beneficial to have different accounting treatments?

We are certain that in one way or another you have experienced this dilemma.

Thus, get your voices heard. Deadline to submit comments is on 30 May 2014.

For more information, please click on this link.



Special Focus

Luxembourg: prime location for Debt Funds

One of the features of the current environment (more stringent regulations, bank deleveraging, ECB Asset Quality Review & Stress Test) is an increased focus on all kinds of real estate backed debt as a "new" asset class. Whilst private equity investors, sovereign wealth funds, pension funds and insurance companies have mainly focused on real estate debt in prime locations such as Germany, France and the UK in recent years, they have now begun moving up the risk curve and are increasingly looking towards debt opportunities in secondary locations such as Ireland, Italy, Portugal and Spain. Luxembourg vehicles are also attractive as they help structure debt funds in these jurisdictions.

Spain is bouncing back

Spain, in particular, has received heightened attention as the national agency SAREB that was set up in the aftermath of the financial crises is gradually issuing performing and non-performing commercial real estate ("CRE") loans and real estate owned (REO). SAREB aims to sell CRE loans and REOs for a gross book value of €106.6bn over the next 15 years, having acquired them from Spanish banks at €50.5bn (implying an overall average discount of close to 52%.)

However, first-time debt investors in Spanish CRE loans and REOs must move swiftly and decisively as the opportune investment window is closing. High-profile investors such as Deutsche Bank, Blackstone, Goldman Sachs, Cerberus and Fortress have acquired and are in the bidding for the first tranches of the SAREB issuance including sales of exposures to publicly listed companies (Project Bermudas - Elora, Metrovacesa, Fado loans), a portfolio of 3000-plus residential units (Project Teide) as well as loans secured by properties in prime locations in Madrid and Catalonia (Project Abacus). Other live SAREB loan transactions include exposures to country estates (Project Harvest), development land (Project Crossover), tourist resorts (Project Blue) and office properties in Madrid (Project Corona).

However, first-time debt investors in Spanish CRE loans and REOs should pay particular attention to maximizing returns and mitigating refinancing risk. One of the greatest challenges facing debt investors is the lack of available exit options and key success factors, while others include working closely with asset managers (if not performed in-house) to decrease vacancy rates, attracting high-quality and long-term tenants and carefully planning capital expenditure to enhance the attractiveness of properties.

Valuation services (Advisory)

KPMG Corporate Finance Luxembourg, together with the KPMG international network, offers a professional know-how on the highest quality level, a wealth of experience and an extensive network to address all complex questions on the national and international real estate markets.

We are equipped to serve private and institutional investors, public authorities as well as national and international corporations.

Key factors that make us a strong choice:

- Our experienced, multi-disciplinary team brings together a myriad set of knowledge to offer you first-hand, all-encompassing real estate services. Our services span from deal sourcing to structuring to transaction execution, such as valuation, due diligence involving on-site visits with independent engineering firms, and SPA review. By interdisciplinary collaboration with other KPMG business lines, such as Transaction Services and Tax advisory, we help ensure that even the most complex mandates are handled efficiently and professionally,
- We have a strong international network of relationships with investors,
- We have access to one of the most extensive research databases that is constantly updated from internal and external sources.

Flyer debt funds


KPMG cutting through complexity

REAL ESTATE & INFRASTRUCTURE
LUXEMBOURG 2013

Luxembourg: prime location for Debt Funds

Although debt funds have always existed, one of the features of the current environment (financial crisis and increasingly stricter regulations) is an increased focus on all kinds of debt (senior, junior, mezzanine or distressed) as a "new" asset class.

Why invest in debt?

In the next four years, about **EUR 1 trillion[1] of real estate bank debt** needs to be refinanced in Europe. Combined with the changing regulatory environment, which requires banks to reduce their exposure to real estate, this offers opportunities to alternative market participants such as insurance companies, pension funds etc, to invest in real estate debt.

Why Luxembourg?

Luxembourg has always been a pioneer in creating a **flexible and efficient legal, regulatory and tax environment**, which offers tailor-made solutions to investors. With its **track record in investment funds**, Luxembourg is an attractive and strategic location for a real-estate debt platform. The country proposes many possible options that include regulated and unregulated vehicles.

Need help?

KPMG is happy to **assist you and coordinate** the tax, accounting and regulatory aspects related to the structuring, launch, maintenance and exit of your debt fund (detailed description over page), e.g.:

- Identification of the most appropriate investment vehicle
- Implementation of an attractive structure considering the business and tax constraints
- Advice on the acquisition or disposal of assets or portfolios
- Review of the potential impact of existing regulations (FATCA, EMIR, AIFMD, etc.)
- Valuation services
- Propose the most suitable financing instruments
- Establish policies and procedures in line with tax, regulatory and financial reporting obligations

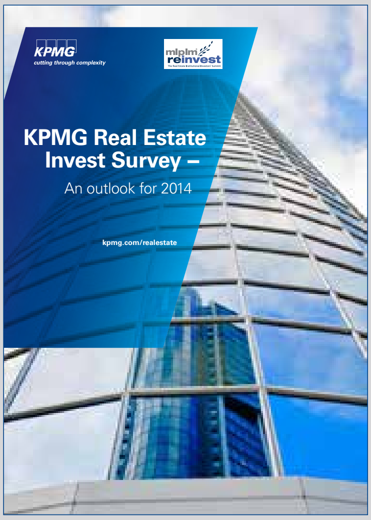
1 Source: DTZ Research

Surveys & Analysis

KPMG Real Estate Invest Survey
Freshly released at MIPIM!

KPMG RE-Invest Survey, now in its third year, has been designed as a preamble to the annual RE-Invest Summit, to be held at Cannes this year. KPMG and MIPIM RE-Invest have conducted this survey, as part of which select investors (mainly SWFs and large pension funds) replied to 15 questions, sharing their assessment of the global real estate investment environment and popular investment strategies for 2014.

With its incisively designed structure and astute questions, the survey gathers the market sentiment and empowers investors by providing strategic insights into the global real estate investment scenario.



European Real SnapShot - Autumn 2013
This international publication gives you an overview and deeper insight into the real estate markets across Europe: from the UK to the Balkans, from Spain to Russia and from the Nordic region to Italy.

Transaction volume in investment property across Europe has increased by 7% y-o-y in H1/2013 and has reached approximately EUR 68.9bn according to RCA1. Investors' regained confidence in Europe's real estate markets is mainly based on the increasingly positive economic outlook.

Real Capital Analytics. Countries reflected: UK, Germany, France, Russia, Austria and Switzerland; Benelux: Belgium, Luxembourg and Netherlands; Nordics: Denmark, Finland, Norway and Sweden; Peripherals: Greece, Ireland, Italy, Portugal and Spain; Central Europe: Czech Republic, Hungary, Poland and Slovakia; Eastern Europe: Albania, Bosnia/Herzegovina, Bulgaria, Croatia, Estonia, Latvia, Lithuania, Macedonia, Montenegro, Romania, Serbia, Turkey and Ukraine.

Special Focus : **HealthCare Real Estate**

Also coming soon: European Real SnapShot Spring 2014

Global Construction Survey 2013: Ready for the next big wave?

KPMG International's 2013 Global Construction Survey catches the industry in a more upbeat mood after several years of falling backlogs and tight margins that felt like a hangover following the previous boom. Economic recovery is stimulating manufacturing, while growing urbanization is driving a continued demand for infrastructure in all forms. Power and energy are essential forces behind such expansion, accelerating the need to extract and transport conventional and unconventional coal and gas, and build new installations for generating traditional and sustainable energy.

The scale and duration of large engineering and construction programs means that contractors – particularly the bigger, global players – require some time to prepare for market upswings. Having tightened their belts and rationalized following the recession, are they fully ready to catch the next big wave of mega-projects?

Risk management remains high on the agenda of senior executives across the sector, and this year's survey asks why the significant investment in controls has not managed to halt large-scale project failures or damaging incidences of fraud and corruption. Leading industry experts add authoritative insight into how to create a stronger risk culture, where key decision makers carefully evaluate potential threats across the organization.

With these issues in mind, the latest KPMG Global Construction Survey comes at an opportune moment, gauging the views of a record 165 senior executives of leading engineering and construction companies from around the world to determine the state of the industry and opportunities for growth.

Asian Real SnapShot! – Issue 2, November 2013

This publication gives an overview of the recent regulatory changes within the real estate sector across the different countries in the Asia Pacific.

UK Real Estate Update - autumn 2013

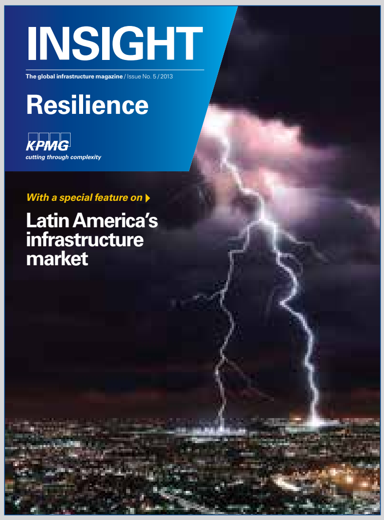
Our UK Real Estate Update provides an overview of developments across the various UK real estate markets including offices, residential, retail, industrial and hotels.We have seen a significant resurgence in the real estate market in the first half of 2013. Appetite created by the increasing availability of equity and debt has fuelled competition for available assets. The key challenge for the UK's nationwide real estate market is whether it can continue to attract the overseas capital. With supply and pricing largely a London issue, can our second tier cities compete with the resurgent markets in alternative European jurisdictions?

INSIGHT: Resilience

In the latest edition of Insight, we explore some of the world's most impactful stories of resilience. We talk to infrastructure policy makers, owners, developers, analysts and investors to find out what keeps them awake at night and what they are doing to manage risk and enhance resilience.

Our authors also explore some of the big events of the past few years to see how civic and infrastructure leaders have responded to crisis and what lessons were learned as a result. We talk to leaders in New York City about their experience with Hurricane Sandy; government officials in Queensland, Australia about the 2010-2011 floods; and civic leaders in Christchurch, New Zealand about the 2011 earthquake.

This edition also includes an exciting and revealing **Special Report on Latin America**, featuring exclusive commentary from many of the region's top political, civic and infrastructure leaders.



Past INSIGHT editions

- INSIGHT vol 4: Megaprojects
- INSIGHT vol 3: Infrastructure Investment
- INSIGHT vol 2: Urbanization
- INSIGHT vol 1: Infrastructure 2050
- INSIGHT magazine home

Real Estate & Infrastructure - Articles & Insight Series

Luxembourg aims at becoming the first non-Muslim country to issue sovereign sukuk

In mid-December 2013, a new draft bill (Projet de loi n° 6631) was submitted to the Luxembourg parliament reflecting Luxembourg's intention to become the first non-Muslim country to issue a sovereign sukuk. This article depicts the fundamental elements of sukuk, outlines how Luxembourg's sovereign sukuk will be structured and analyses Luxembourg's role as a hub for structuring Islamic finance investments in and through Europe.

Oliver R. Hoor, Pierre Kreemer,
AGEFI, published in January 2014

Infrastructure: An Emerging Global Asset Class

Inflation-linked long duration characteristics appeal to pension funds.

Yves Courtois,
CFA Institute Magazine, Published in November 2013

The impact of the OECD BEPS Action plan on real estate investment structures

On 19 July 2013, the OECD launched its Action Plan on Base Erosion and Profit Shifting ("BEPS") which describes 15 proposed actions targeting (mainly) changes in the area of corporate taxation (the "Action Plan"). The Action Plan together with other international efforts (for example, at EU level) demonstrates a turnaround in today´s tax environment. This article outlines the anticipated outcomes that will have an impact on cross-border real estate investments and provides for best practice recommendations.

Oliver R. Hoor, Pierre Kreemer,
AGEFI, published in February 2014

Structuring Sharia-compliant Alternative Investments via Luxembourg: A Practitioner's View

To be released March 2014 in Agefi

Recent years have seen a surge in Islamic investors carrying out business in a more Sharia-compliant manner. Banks and finance houses have had to develop products and services that meet this requirement. For practitioners who have not previously encountered Islamic finance, there might naturally be concerns in approaching this field. This article provides an overview of the fundamental elements of Islamic finance and analyses how Islamic Alternative Investments (in particular, real estate and private equity investments) may be structured via Luxembourg.

Oliver R. Hoor, Pierre Kreemer

Announcements

KPMG Luxembourg S.à r.l. promotes its German speaking team – Wir verstehen Sie

Given the official status of the German language in Luxembourg in addition to Germany's location directly across the border, KPMG Luxembourg is bringing together its German-speaking tax specialists to form a dedicated German desk. The desk has been formed to assist clients - in their mother tongue - with the Luxembourg and international tax aspects of their projects, whether in Germany or elsewhere.

Non-German speakers investing in Germany can also benefit from the new desk by drawing on our in-depth knowledge of the German market and its complexities.

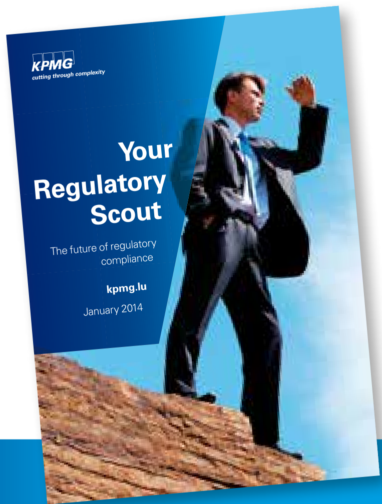
Our Audit, Accounting and Advisory teams can also assist you in German in your projects.

Your Regulatory Scout – the future of regulatory compliance

Focus on **your** core business whilst KPMG's **Centre of Excellence** for investment management regulation concentrates on scanning **your regulatory compliance** watch.

- **Do you see regulatory opportunities for your business?**
- **Are you up-to-date with all the rights, responsibilities, and liabilities for conducting officers, heads of, or supervisory functions?**
- **Do you have the resources and experience to maintain an overview of the whole regulatory landscape?**

Learn about our new regulatory scout service by keeping track of regulation, unlocking hidden opportunities, avoiding last-minute rush.



Should you be interested, please contact:

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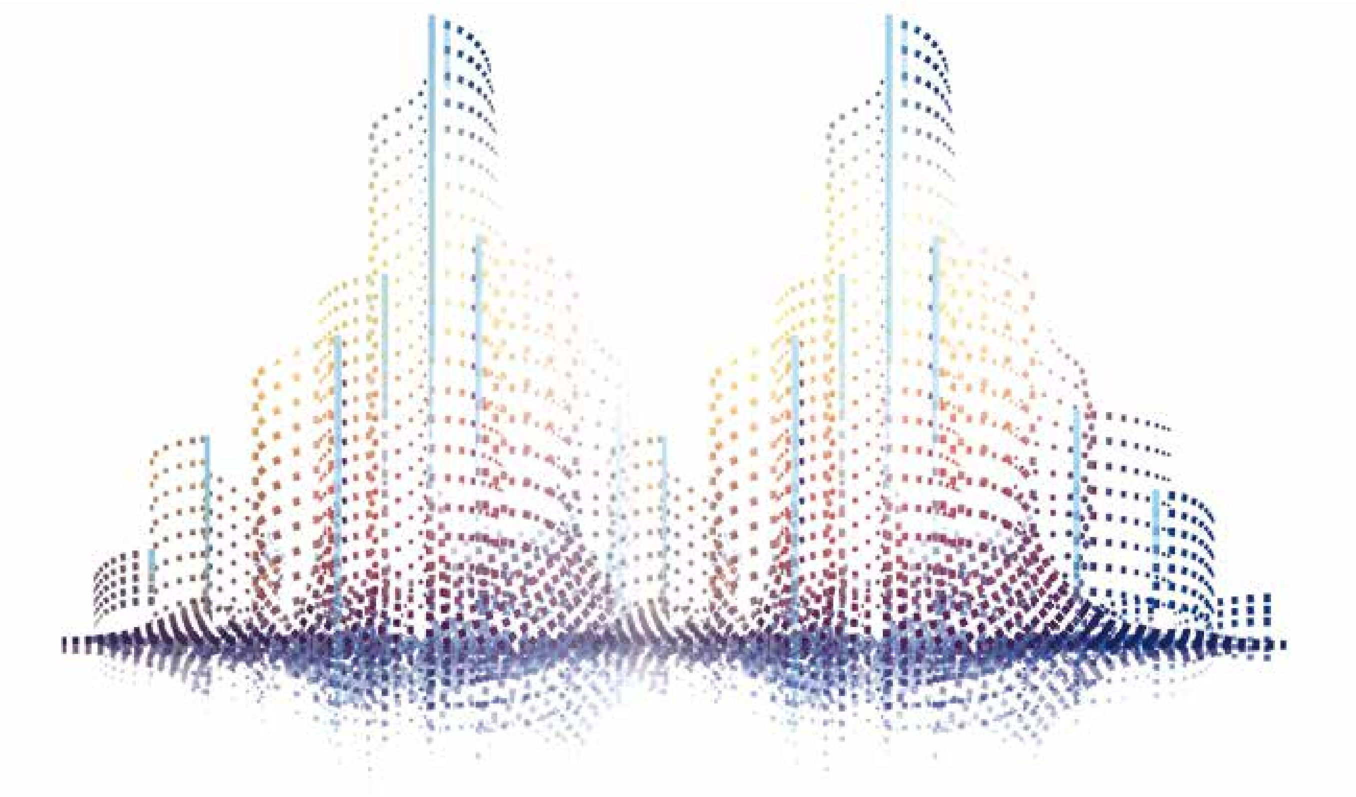
Upcoming Events

We are looking forward to meeting you in Cannes at MIPIM, March 11-14, 2014



Our attendees at MIPIM

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Sponsoring

04/03/14

ALFI Roadshow to Amsterdam

65TH FIABCI WORLD CONGRESS
17-22 MAY 2014, LUXEMBOURG

17-22/05/14

KPMG Luxembourg is a silver sponsor of the **FIABCI World Congress** taking place on 17-22 May 2014 in Luxembourg.

Visit the conference website and register at:
http://www.fiabci65.com/

Past Events & Reports

07-09/10/13
ExpoReal

14/11/13
ALFI TA Distribution Forum

12/12/13
Digital Marketing Event (Luxembourg)

29-31/10/13
14th KPMG Global Real Estate & construction conference

19/11/13
ALFI European Alternative Investment Funds Conference

17/12/13
ALFI Leading Edge Conference - The evolving taxation agenda and its impact on the Asset Management Industry

05/11/13
EFAMA annual conference

"Investment Management Forum"

21/11/13
INREV CFO conference (Munich)

06/02/14
ESAFON Debt Fund Conference(Luxembourg)

05/11/13
KPMG Business DialogueS - EMIR(Luxembourg)

02/12/13
IFRS update for CFOs

07/02/14
KPMG Spain RE conference(Spain)

Notes

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