

Haynes, Lanea

From: Gillis, Diana L.
Sent: Wednesday, April 26, 2017 3:14 PM
To: [REDACTED]
Cc: Walsh, Kathryn E.; Shaffer, Kristin; Whitehead, Nora; Carson, Timothy; Storm, Evan; Berg, Karen E.
Subject: RE: Question regarding Luxembourg entity

[REDACTED],

As per the May 2016 blog, the inquiry is whether the entity issues securities that allow the holders to vote for the election of a supervisory board of directors. You have affirmatively stated that no one has such a right. Please note that interp 1607011 is not a blanket statement that all SCAs will be non-corporate, it is instead providing guidance on a scenario in which we did not view the board in that particular instance as a "supervisory board of directors."

If you conclude this is non-corporate, you will have to make a call on whether it should properly be treated as an LLC or LP, or provide information covering both scenarios to be safe.

We are not sure what you are asking about the "compartments."

-Diana

From: [REDACTED]
Sent: Wednesday, April 26, 2017 1:05 PM
To: Walsh, Kathryn E.; Whitehead, Nora; Storm, Evan
Subject: Question regarding Luxembourg entity

I have a question regarding a Luxembourg SICAR (*société d'investissement en capital à risqué*, or investment company in risk capital) that is in the form of a S.C.A. (*société en commandite par actions*, or partnership limited by shares). The PNO has recently advised that a S.C.A. can be treated as a non-corporate entity (see interpretation #1607011). In my scenario, the SICAR's operations are managed by a "general partner" and there is also an investment manager that can weigh in on investment and disposal decisions. The shareholders/limited partners are passive investors and do not have any rights to vote for a "supervisory board" (except that they may vote to replace the general partner).

Can you confirm that (1) the SICAR should be treated as a non-corporate entity for HSR purposes, and (2) that only the general partner needs to be listed for the SICAR under Item 6(b) (i.e., same treatment as a partnership)?

Also, please confirm that the analysis is unaffected by whether the SICAR's investments are divided into "compartments" that track specific investments (similar to series LLCs).

Thanks,

[REDACTED]

[REDACTED]

[REDACTED]