



# Substance in a post- BEPS world

*Conference*

November 7th, 2017





# Agenda

- 5pm**      **Welcome & Introduction**  
Georges Bock, Partner, Head of Tax | KPMG Luxembourg
- 5:05pm**    **Latest EU & BEPS developments, Luxembourg perspective**  
Flora Castellani, Executive Director | KPMG Luxembourg  
Sophie Boulanger, Associate Partner | KPMG Luxembourg  
Louis Thomas, Partner | KPMG Luxembourg  
Christophe Diricks, Partner | KPMG Luxembourg
- 5:35pm**    **Substance from foreign perspectives - Panel discussion**  
Franz Prinz zu Hohenlohe, Partner | KPMG Munich  
Ricardo Lopez Rubio, Director | KPMG Madrid  
Simon Hart, Senior Manager | KPMG London  
Maud Meotti, Senior Manager | Fidal France
- 6:20pm**    **Closing and Q&A**



# BEPS & EU developments

## *Luxembourg perspective*





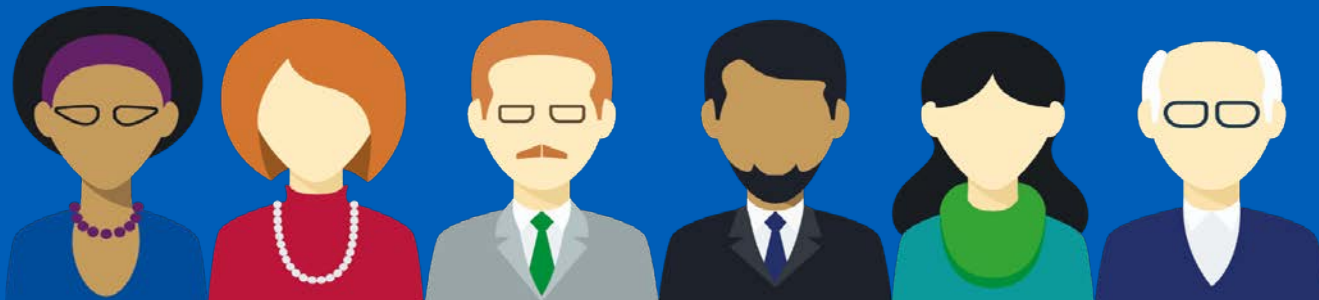
General developments

**Flora Castellani**

**KPMG Luxembourg**

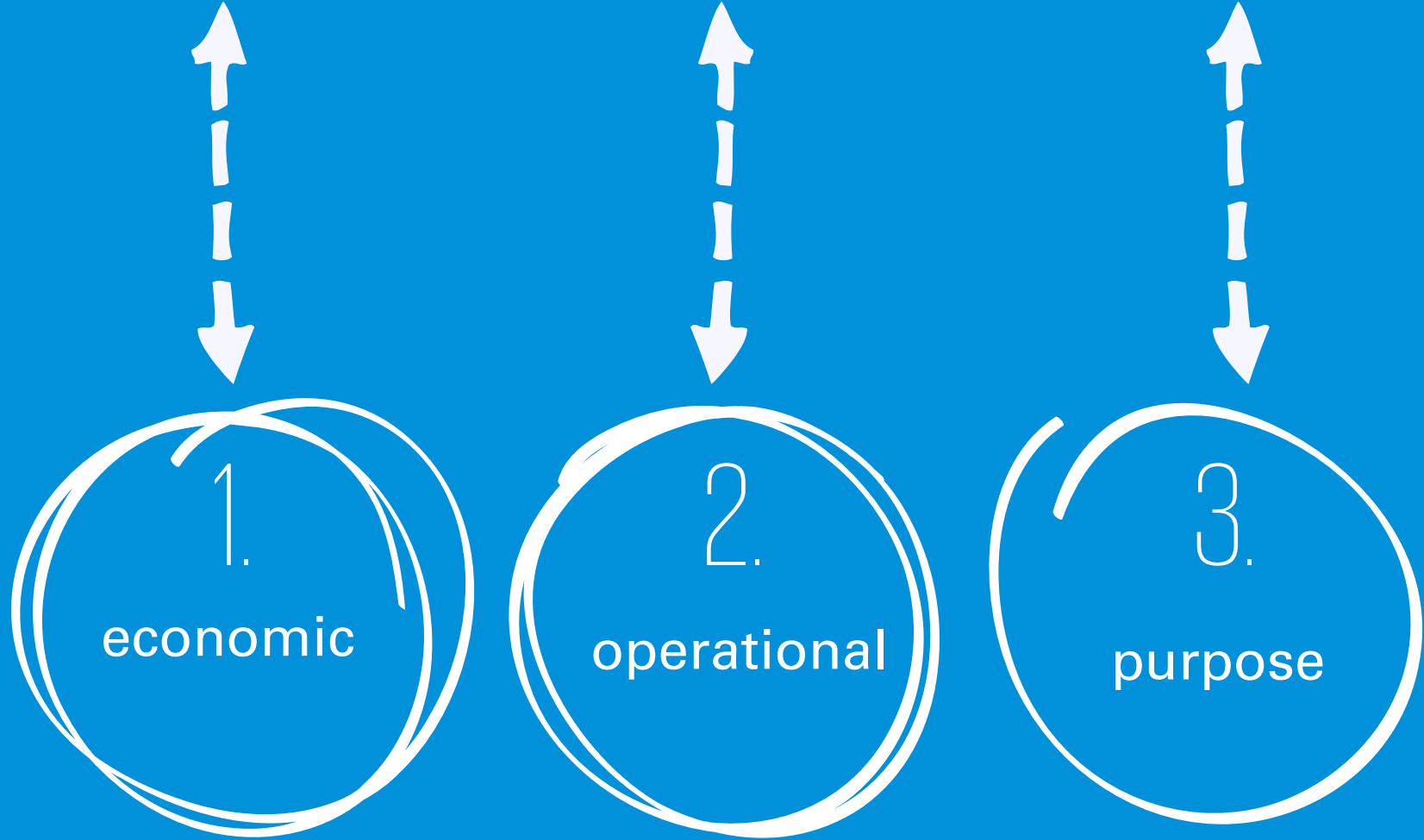
# Substance in a post-BEPS world

## Which definition?



What are the key pillars?





# The purpose test - main concept

**Abuse of law**  
**(§6 StAnpG)**



Exclusive

**GAAR**  
**(PSD/ATAD)**



Main / one of the main

**PPT**  
**(BEPS)**

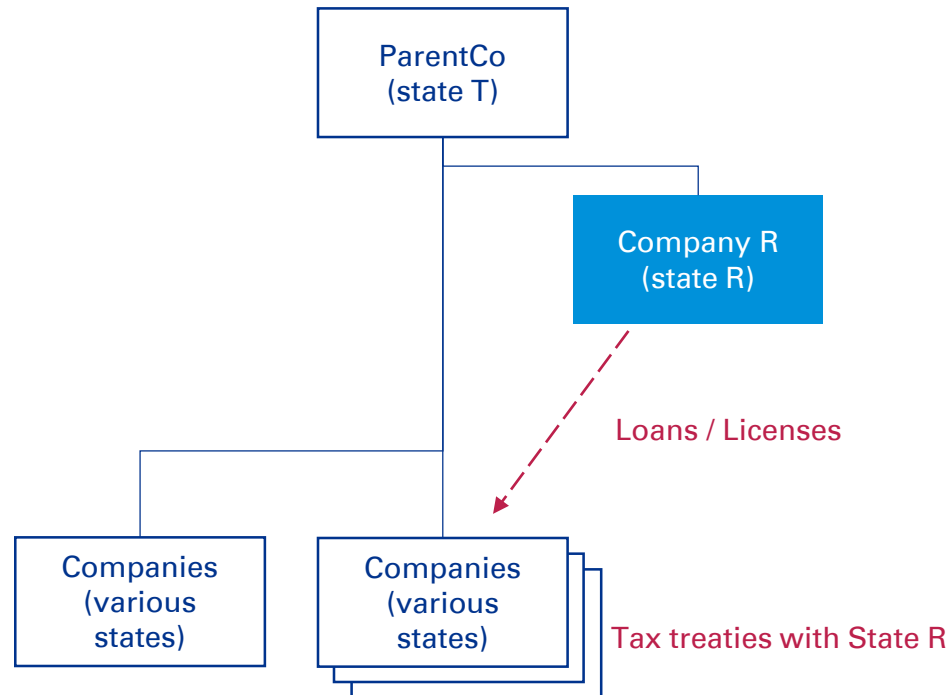


One of the principal

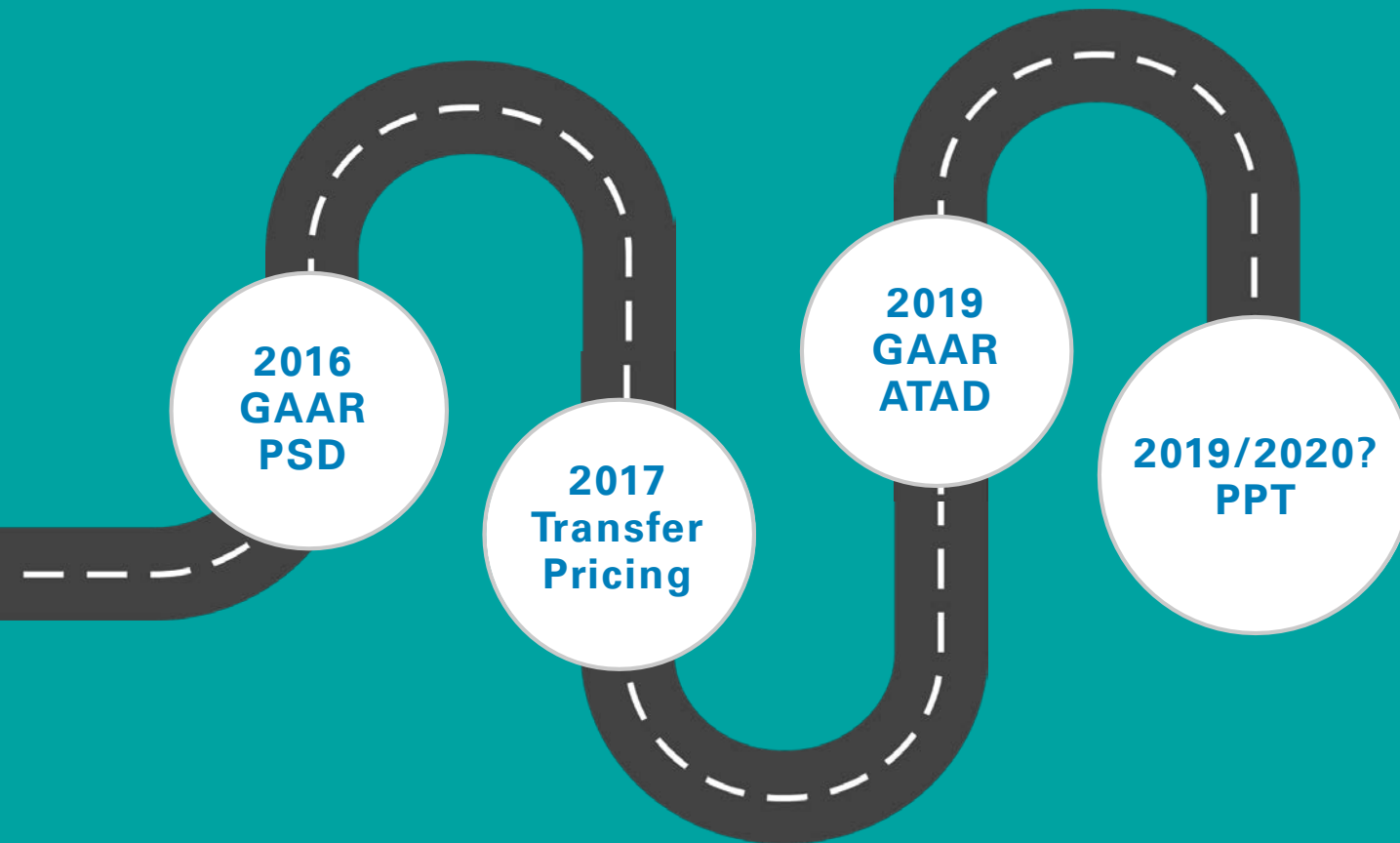
## Which purpose?



# The purpose test - treaty access



# What is the timeline?



**Watch-out  
implementation  
by local tax  
authorities!**

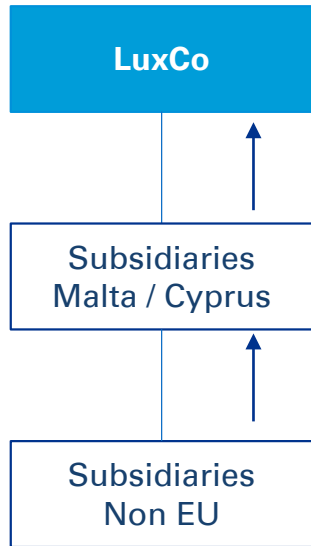


# Impact on MNEs

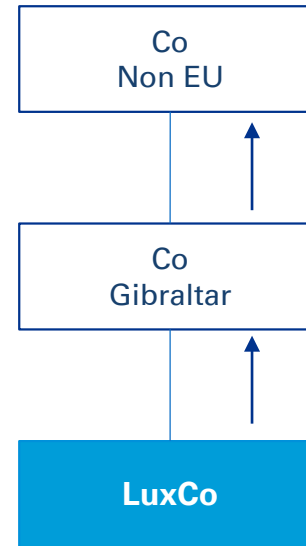
Louis Thomas

KPMG Luxembourg

# Application of the GAAR (PSD) in Luxembourg



**Dividend exemption in Luxembourg?**



**Withholding tax exemption on dividends from Luxembourg?**

# Holding companies

The lessons  
from the ECJ  
& the foreign  
experience





# Focus on transfer pricing

Sophie Boulanger

KPMG Luxembourg

# Transposition of the new OECD guidelines in Luxembourg



**Guidance on the application of the “arm’s length” principle to cross-border transactions between associated enterprises**

**.... in line with BEPS Actions 8-10 and Action 13 recommendations**

# Economic and operational substance

*Illustration - Circular LITL 56/1 - 56bis/1 of 27 December 2016*



Which amount of share capital?



How many employees?



How many resident board members?

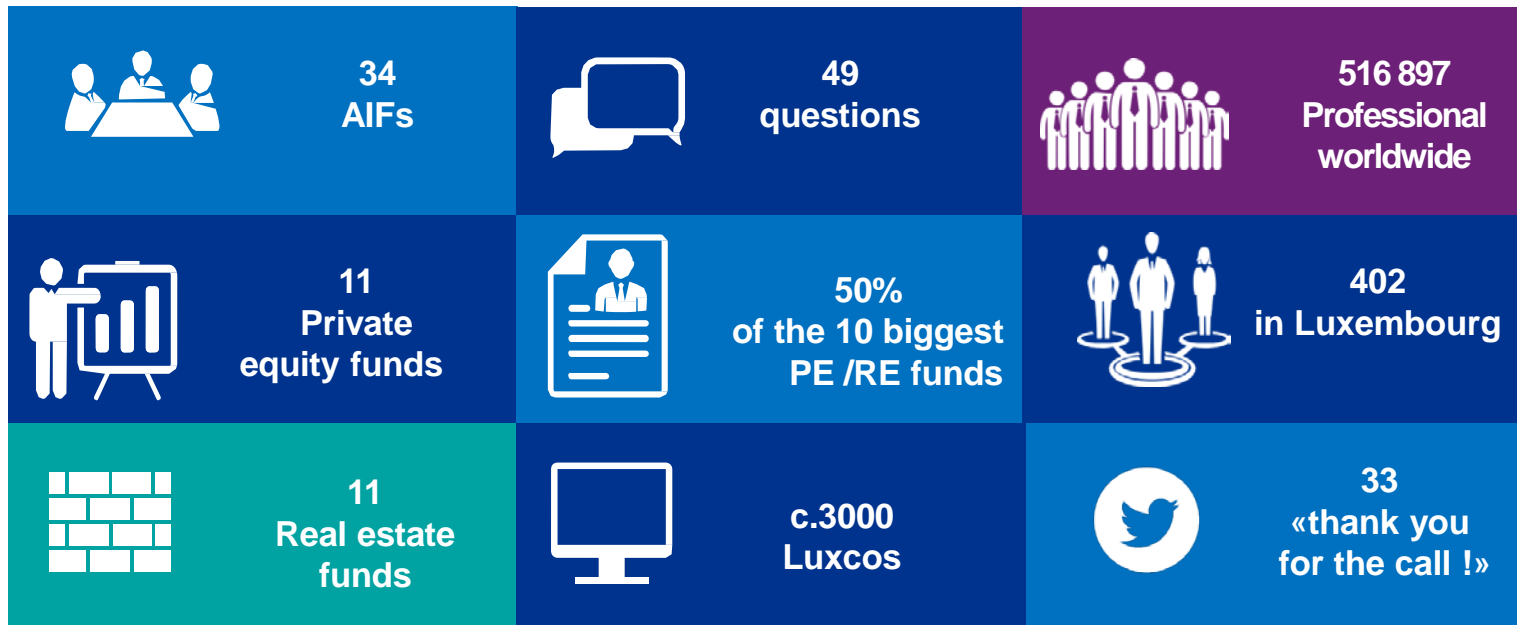




# Impact on Alternative Investment industry

**Christophe Diricks**  
**KPMG Luxembourg**

# Our last substance survey...



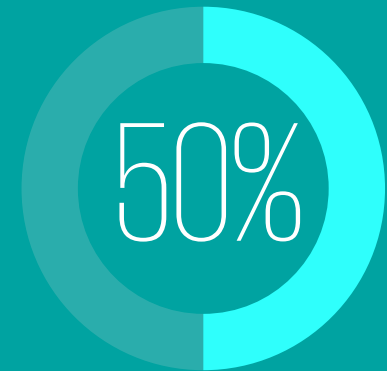
... discloses some trends such as...

10% of the AIF

are currently relocating  
decision makers  
in Luxembourg

95% Declare to need guidelines  
in term of substance

2/3 of the  
AIF have AIFMS  
out of which  
3/4 are  
in Luxembourg



plan to hire staff in  
the coming 6  
months  
– Accountants  
– Risk officers  
– Tax & Legal profile



# *Foreign perspective*

## *Panel discussion*



# Panel discussion

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# Q and A & Closing Remarks

# Contact us



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