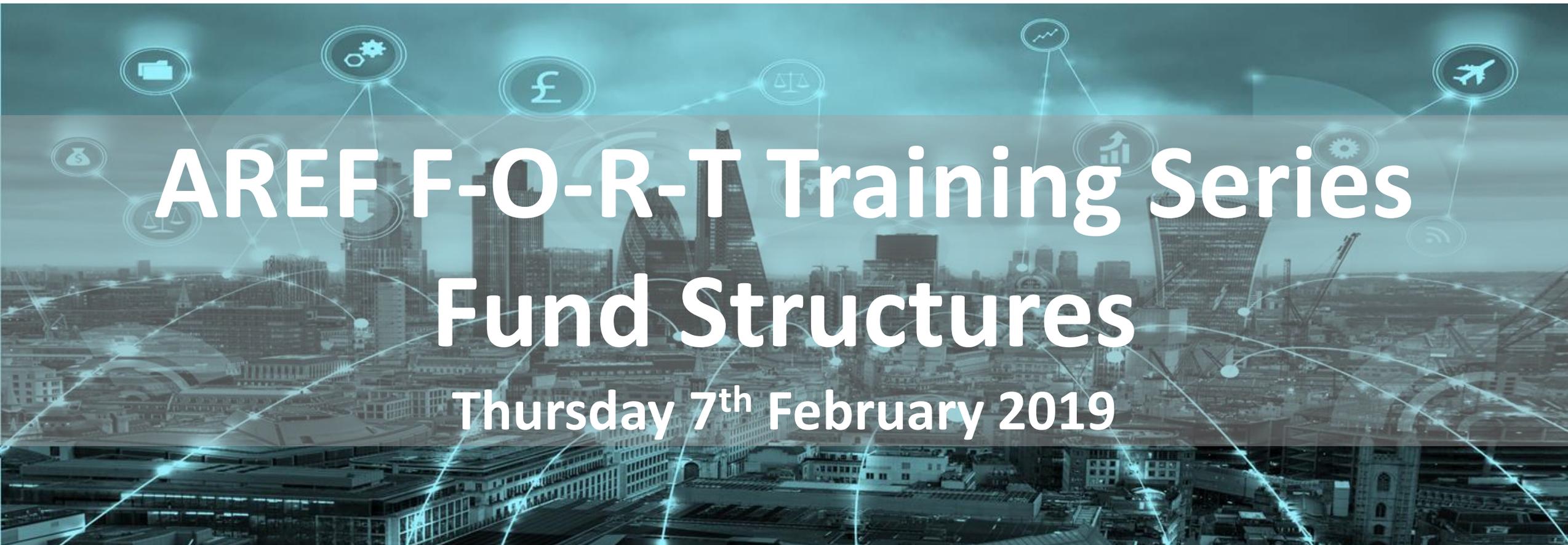


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# AREF F-O-R-T Training Series

## Fund Structures

Thursday 7<sup>th</sup> February 2019



**Welcome**  
**Darren Stolzenberg**  
**Chair of the AREF Education & Training Committee**  
**Partner, CMS CMNO**



Alex Moss  
Director, Real Estate Research Centre  
Cass Business School  
[Alex.moss.1@city.ac.uk](mailto:Alex.moss.1@city.ac.uk)

# Cass Real Estate Research Centre

Building the bridge between theory and practice

Launched in Q4 2018, the Centre's purpose is to provide a dynamic link between the academic community and practitioners involved in real estate.

## Key objectives:

- Produce reports on a commissioned and ad hoc basis on under-researched areas of industry interest
- Host events on topical issues for the industry
- Facilitate the production of academic papers for publication in journal and conferences
- Offer dedicated Executive Education courses for industry practitioners
  
- Funding is via sponsorship from industry partners

**Sign up to the mailing list on the website to receive details of forthcoming events**

<https://www.cass.city.ac.uk/faculties-and-research/centres/real-estate>



# Agenda

- Introduction by Alex Moss
- Presentation on the findings of the Fund Structures Report – Rachel Portlock, Independent Consultant
- Panel session featuring:
  - Jonathan Brady, BlackRock
  - Ben Mardon, Citco
  - Richard Batchelor, Eversheds Sutherlands
  - Rachel Portlock
- Concluding remarks

# Chair & Speakers



**Alex Moss**  
Cass Business School



**Darren Stolzenberg**  
CMS CMNO



**Rachel Portlock**  
Real Estate Consultant



**Ben Mardon**  
Citco



**Jonathan Brady**  
BlackRock



**Richard Batchelor**  
Eversheds Sutherland

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Questions will be passed onto the moderator during the panel session.



# Rachel Portlock

## Author of the Fund Structures Paper

# Introduction

- Interviews with 22 leading industry professionals
- Survey responses from 35 distinct firms
  
- Findings split into UK and Europe
  - Where assets are domiciled

# UK Fund Structures: Recent Trends

- JPUTs and PAIFs dominated open-ended space in last three years
- English LP most popular closed-end structure

# UK Fund Structures: Future Trends

- Current trends set to continue in near future
- Some hesitation over longer-term future of JPUTs
  - CGT issue resolved but...
  - Not in EU
  - “Tax haven” perception
- REITs and ACSs, to lesser extent, more popular

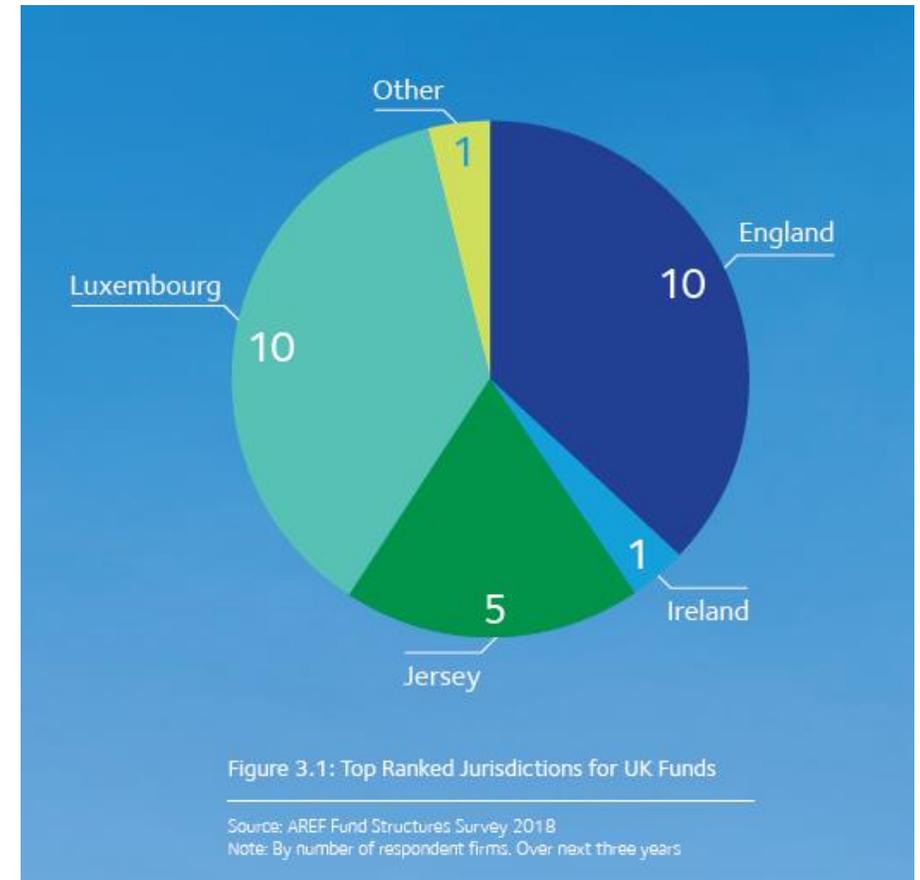
# UK Fund Structures: Open-ended Funds

- Institutional
  - No structural changes
  - Amendment to terms
  - Greater governance
- Retail
  - FCA consultation ongoing
- Increase in REITs

# UK Fund Structures: Brexit

- Greatest influence over the next three years
- Move to Luxembourg?

Top Fund Jurisdictions: Next Three Years

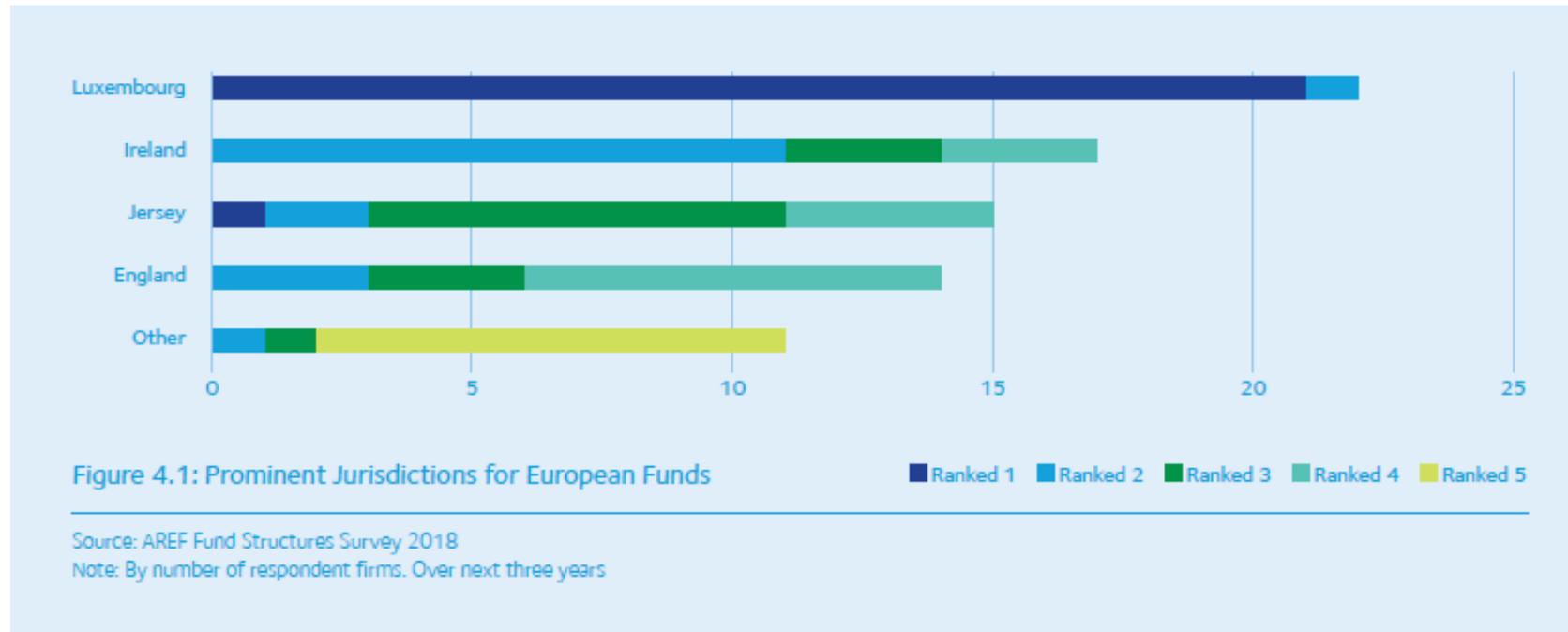


# European Fund Structures: Trends

- In last three years
  - SCSp, followed by FCP, most prominent open-ended structures
  - SCSp most dominant closed-ended structure
- Little change anticipated going forward

# European Fund Structures: Luxembourg

- Luxembourg is domicile of choice
- Dominance set to continue



# European Fund Structures: Regulation

- Luxembourg has array of regulatory regimes
- Recently introduced RAIF regime
  - Lighter regulatory touch
- Positively received and its popularity expected to grow

# European Fund Structures: Alternatives?

- Dublin take up limited
  - Reluctance to be “first mover”
  - Lack of workable limited partnership
    - Reformation
  
- France?

# Fund Structures: Tax

- Treatment of tax is major influence on structuring
- CGT relief
- BEPs
  - Holding structures in same jurisdiction as overall fund structure
  - Substance rules
  - Luxembourg main beneficiary

# The Report



Fund Structures Overview February 2019

This table is intended to be a high level introduction to the key features of some popular property investment vehicles but not a comprehensive/definitive guide.

Investment Vehicle	Tax Treatment	Transfer Tax	Listable	Open/Closed Ended	Regulatory Supervision	Investor Restrictions	Best Feature	Worst Feature	Best Used For
Luxembourg FCP SIF	Tax transparent.	NI	Yes (if open ended)	Usually closed-ended (umbrella fund allows mixture)	Needs to be approved and registered by CSSF in Luxembourg and comply with AIFMD.	Only well informed investors: institutions, professional or €125,000 minimum. Not open to retail market.	Tax and legal transparency. Can be organised as a FCP or a limited partnership. Suitable to large number of investors worldwide.	No access to tax treaties at fund level. Not entitled to EU Tax Directives. Diversification requirements.	Pan-European property investment
Luxembourg SICAV SIF	Tax treatment dependent on legal form.	NI	Yes	Usually open-ended (umbrella fund allows mixture)	Needs to be approved and registered by CSSF in Luxembourg and comply with AIFMD.	Only well informed investors: institutions, professional or €125,000 minimum. Not open to retail market.	Access to double tax treaties if no tax transparent legal form/No access to double tax treaties if tax transparent legal form. Diversification requirements.	Access to double tax treaties if no tax transparent legal form. No access to double tax treaties. Diversification requirements.	Pan-European property investment
Luxembourg SCSp - RAIF	Tax transparent.	NI	Yes (but complicated)	Open/closed-ended	Fund itself is unregulated but management must comply with AIFMD.	Only well informed investors. Not open to the retail market.	Tax and legal transparency. Fund itself not subject to regulatory oversight by CSSF.	No access to double tax treaties. Diversification requirements.	Pan-European property investment
UK Limited Partnership and UK Private Fund Limited Partnership	Tax transparent.	5% on direct underlying UK property (GM above £250k (lower rates applied to portion of GM below £250k).	No	Usually closed-ended	Manager regulated by FCA in UK and must comply with AIFMD (unless JV exemption applies).	Limited to institutional, high net worth or knowledgeable investors.	Tax transparent.	Illiquid and can be subject to transfer tax.	UK/Pan-European property investment funds UK property joint ventures with exempt tax payers
UK - RBT	Tax exempt on UK real estate investment business.	0.5% if UK PLC.	Yes. There are listing/stock exchange requirements.	Closed-ended	Regulated according to listing/recognised stock exchange. If structured as a fund, it will also need to comply with AIFMD.	Yes. There are close company ownership tests with exemptions for institutional shareholders. There are also 105 corporate owner tests.	Corporate form, which can include a group structure, with tax exempt status and liquidity as a listed vehicle. Is a UK resident tax exempt vehicle for investment.	As a listed vehicle there are securities laws, continuing obligations and costs. Ongoing conditions to maintain tax status.	Real estate businesses and funds investing in UK real estate (wanting to have access to and liquidity of stock markets). They can also invest in other jurisdictions subject to local tax laws.
UK Unauthorised Exempt Property Unit Trust	Effectively tax-free at fund level.	0.5%	No	Usually semi open-ended	Manager regulated by FCA in UK and must comply with AIFMD	Only available to UK tax exempt investors, i.e. pension funds and charities.	Tax efficiency and allows for trading income in structure.	Tax exempt investors only.	Pooled property for exempt investors.
Property Authorised Investment Fund ("PAIF"), OEIC	Tax free at fund level for property investment income and gains. Withholding tax on distributions to non-exempt investors.	0.5%	No	Open-ended	Open-ended investment company authorised by FCA in UK and must comply with AIFMD as well as broader FCA rules (such as COLL)	Not available within LCiTS. Suitable for ISA if structured as a NIJS. Certain investors require a feeder. No corporate may hold 10% or more of the PAIF	Available to general public if structured as a NIJS.	Investment restrictions and need for feeder for some investors.	Public access to the property sector.
Co-Ownership Authorised Contractual Scheme (Co-ACS)	Tax transparent for income. Exempt from CGT, investors potentially taxable on the disposal of units depending on their status.	0.5%	No	Open-ended	Vehicle authorised by FCA in UK and must comply with AIFMD as well as broader FCA rules (such as COLL)	Only available to professional, sophisticated investors or those with a minimum of £1 million to invest.	Tax transparency.	Administratively complex.	Pooled property for institutional investors.
Jersey Property Unit Trust	Usually tax transparent for income. Potentially subject to capital gains tax.	NI	Yes but unusual	Usually closed-ended	By JPSC in Jersey. Unregulated funds now available for institutional and large investors. The functionaries of funds are supervised. If marketing in Europe, must consider AIFMD.	Depends on regulatory approval obtained.	Tax treatment and potential liquidity. Capital gains tax can benefit from CIV regime.	Must be managed and controlled outside UK.	UK property investment.

[www.aref.org.uk](http://www.aref.org.uk)



## Panel Session

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# Panellists



**Alex Moss**  
**Cass Business School**



**Rachel Portlock**  
**Real Estate Consultant**



**Ben Mardon**  
**Citco**



**Jonathan Brady**  
**BlackRock**



**Richard Batchelor**  
**Eversheds Sutherland**



# Conclusions



# Thank you