



# Intertrust

## Managing JV structures in the Netherlands and Luxembourg

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# **Part 1**

## Ensuring proper substance

# Definitions

## Effective management

- ▶ The place of effective management is the place where key management and commercial decisions that are necessary for the conduct of the entity's business as a whole are in substance made

*(OECD commentary to the 2008 model convention, article 24)*

# Definitions

## Effective management

- ▶ Competent authorities [...] would be expected to take account of various factors, such as where the meetings of its board of directors or equivalent body are usually held, where the chief executive officer and other senior executives usually carry on their activities, where the senior day-to-day management of the person is carried on, where the person's headquarters are located, which country's laws govern the legal status of the person, where its accounting records are kept, whether determining that the legal person is a resident of one of the Contracting States

*(OECD commentary to the 2008 model convention, article 24.1)*

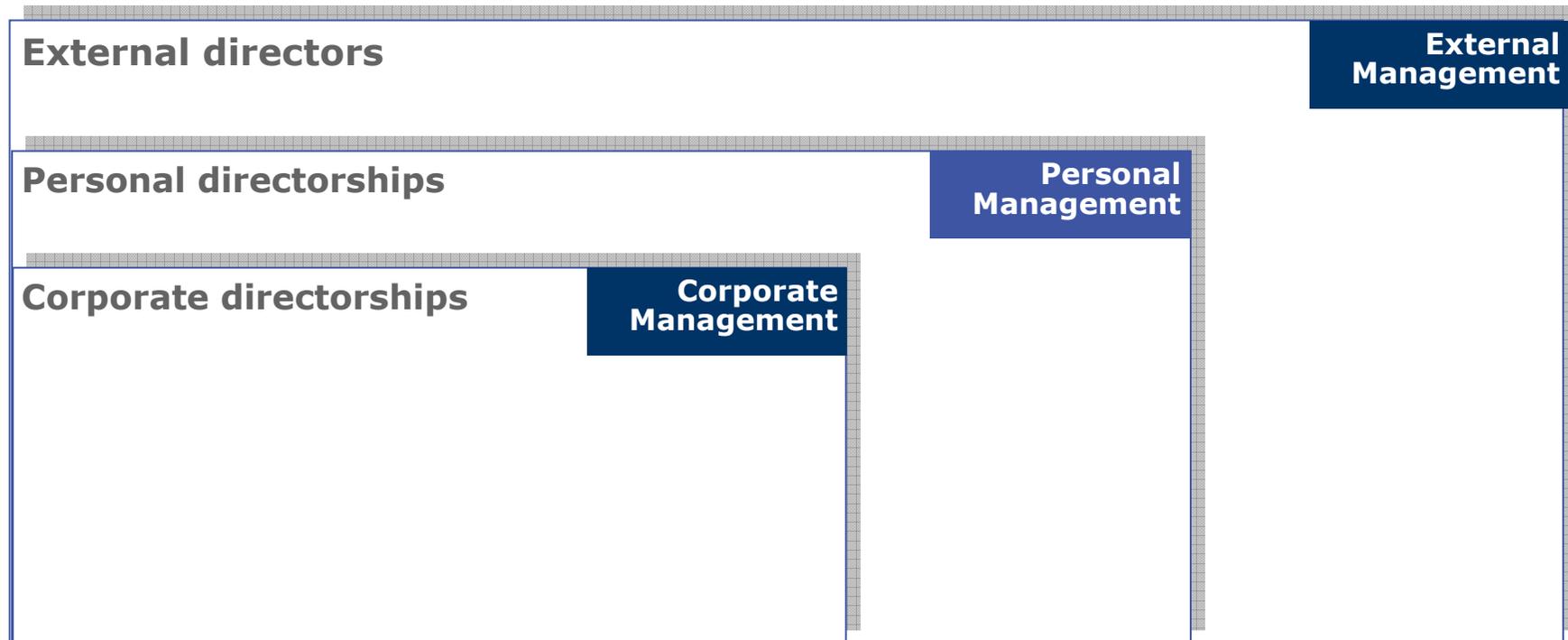
# Types of management

## Examples of common board structures

- ▶ Client directors only
- ▶ Local (corporate) director only
- ▶ Alphabet board with personal managers
- ▶ Mixed board with external directors

# Types of management

## Different types of directors

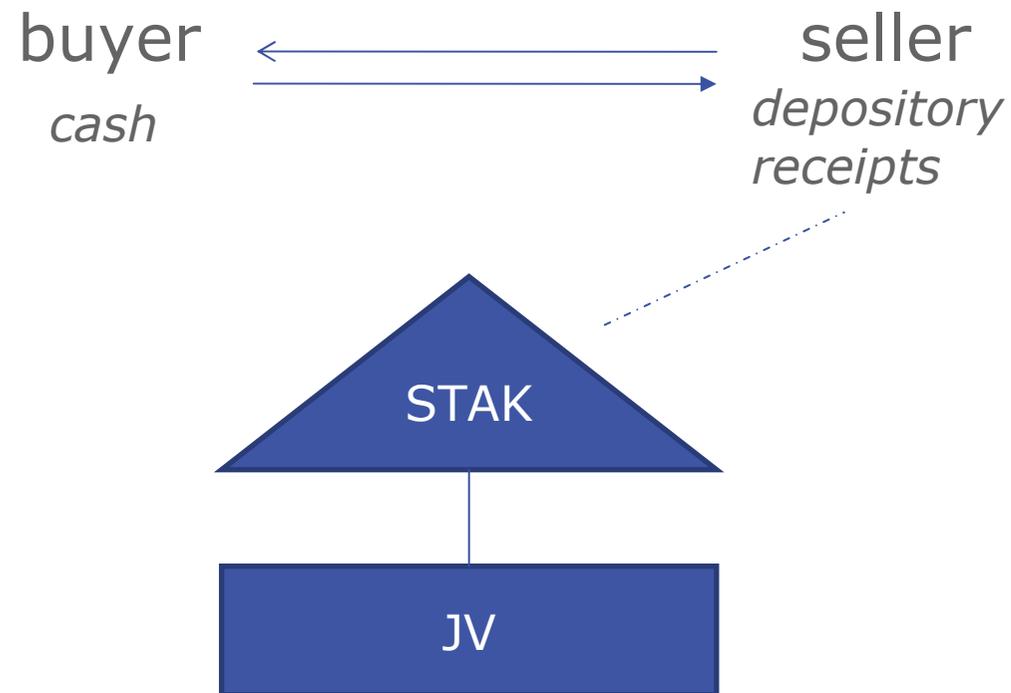


## **Part 2**

# State of the art JV structures

# State of the art JV structures

## "STAK" structure



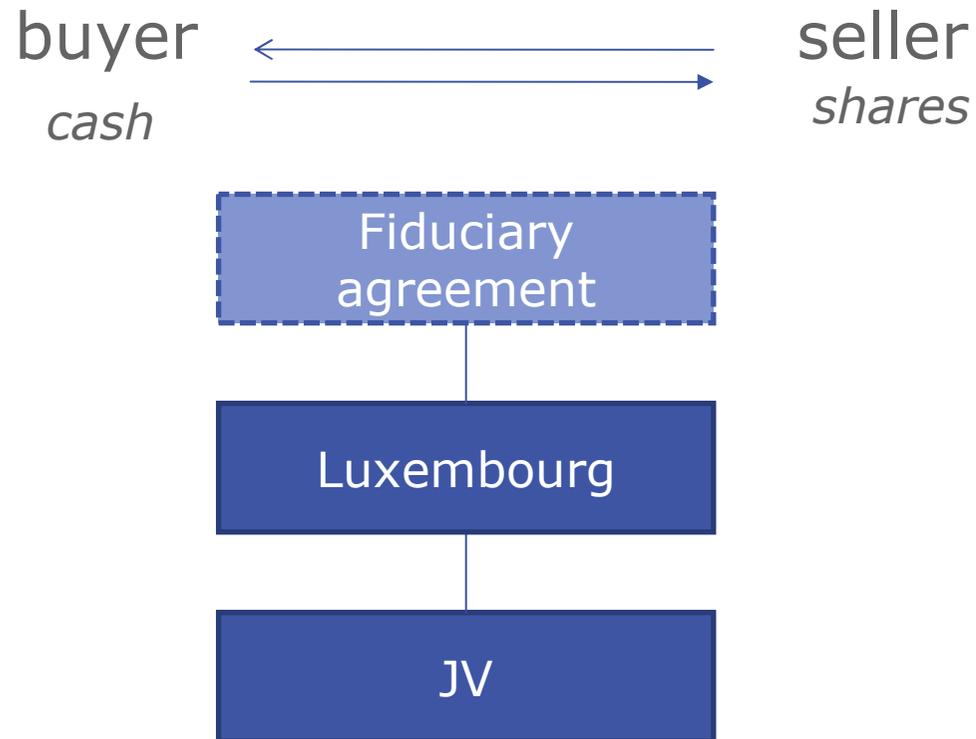
# State of the art JV structures

## “STAK” structure

- ▶ JV assets held by orphan entity
- ▶ Protects from unwanted shareholder actions
- ▶ Allows for JV transactions achieved in stages and over time
- ▶ Extended flexibility

# State of the art JV structures

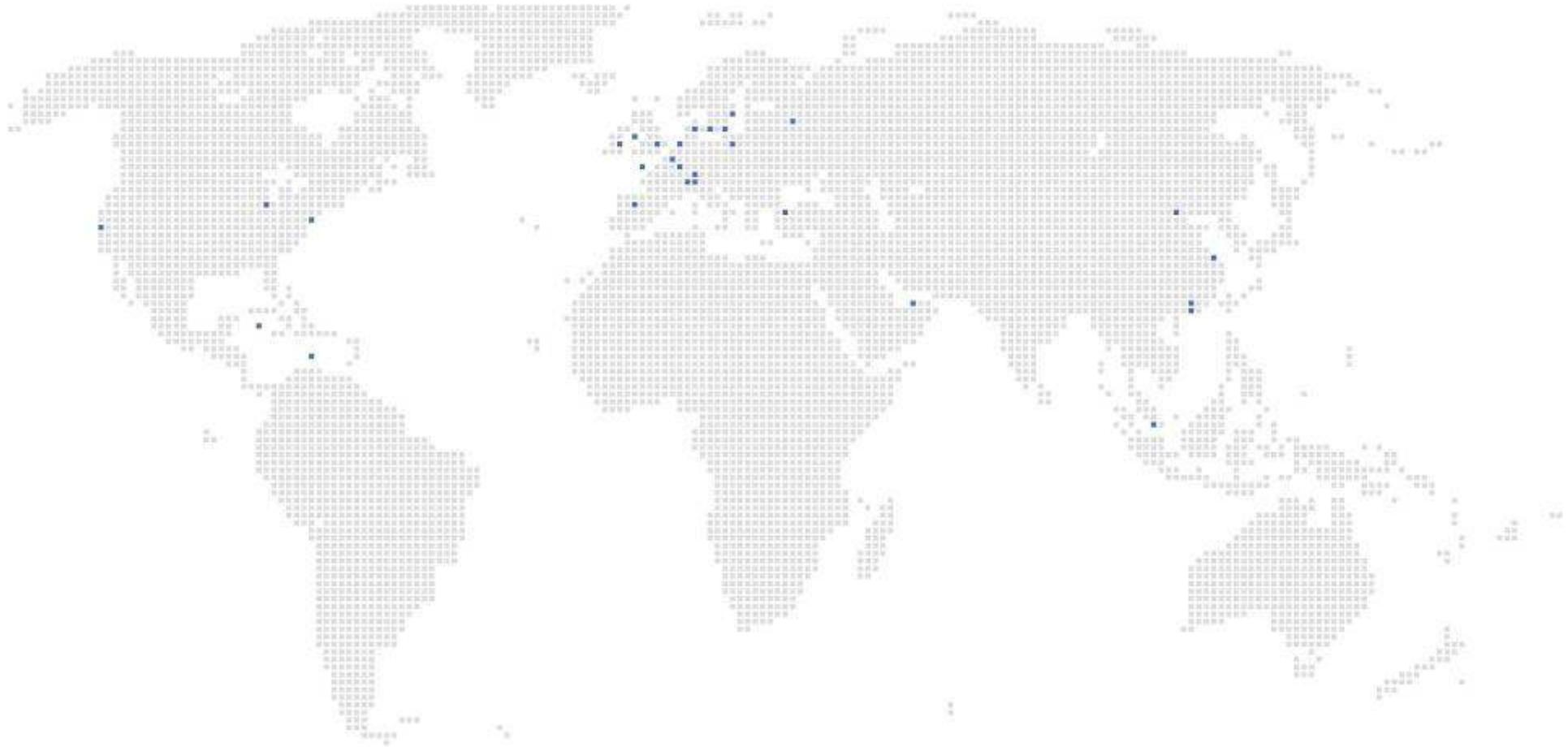
## Luxembourg fiduciary contract



# **State of the art JV structures**

## Luxembourg fiduciary contract

- ▶ Confidentiality of buyer and seller
- ▶ Allows for 'silent' JV transactions



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# Thank you

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