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M&A Academy

*One single European entity:
a dream or reality for your
company?*

20 October 2011

Agenda

Setting the scene

Drivers to simplify the corporate structure

How are companies simplifying their business?

The single European entity model

Establishment of the structure

Maintaining the structure

Some tips and tricks

Setting the scene

Setting the scene

From a tax point of view

Increased attention & international co-operation

➔ Increasing anti-avoidance focus

1

Anti-avoidance & legislation

- Anti-debt push down
- Thin cap
- Interest allocation
- CFC
- Substance debate
- Real time exchange of information
- Combat VAT fraud (> EUR 100 billion)

From an operational point of view

Cost saving / revenue enhancement pressure

2

- Reduction administrative burden
- Reduce headcount
- Reduce I/C transactions
- Reduce # of entities
- Systems simplification
- ...

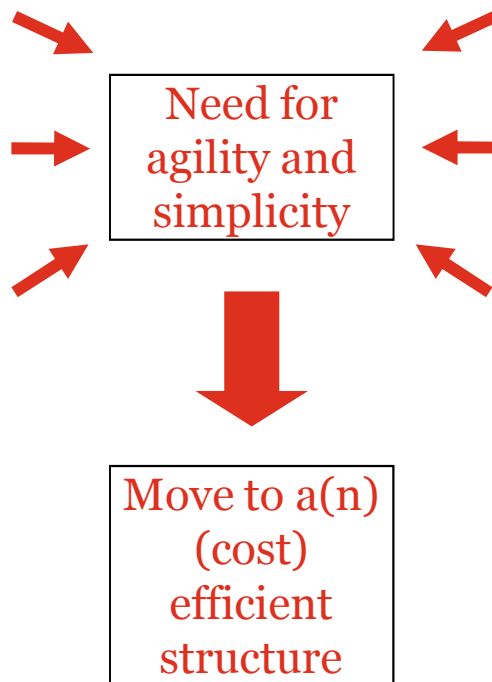
Drivers to simplify the corporate structure

Drivers of Simplification of Corporate Structure

Internal Drivers

- Growing complex decision making process and corporate governance
- Need for central control and risk management within European market
- Market pressures to operate as a Pan-European business
 - Regional management for different functions
 - Standardisation and simplification of business processes
 - Imperative for cost savings in non-value added administrative activities
 - Restructuring activities to optimize the operations network
- Desire to reduce complexity and volume of intra-group transactions and associated costs
- Historical burden and risk of overly complex corporate structures

Opportunity

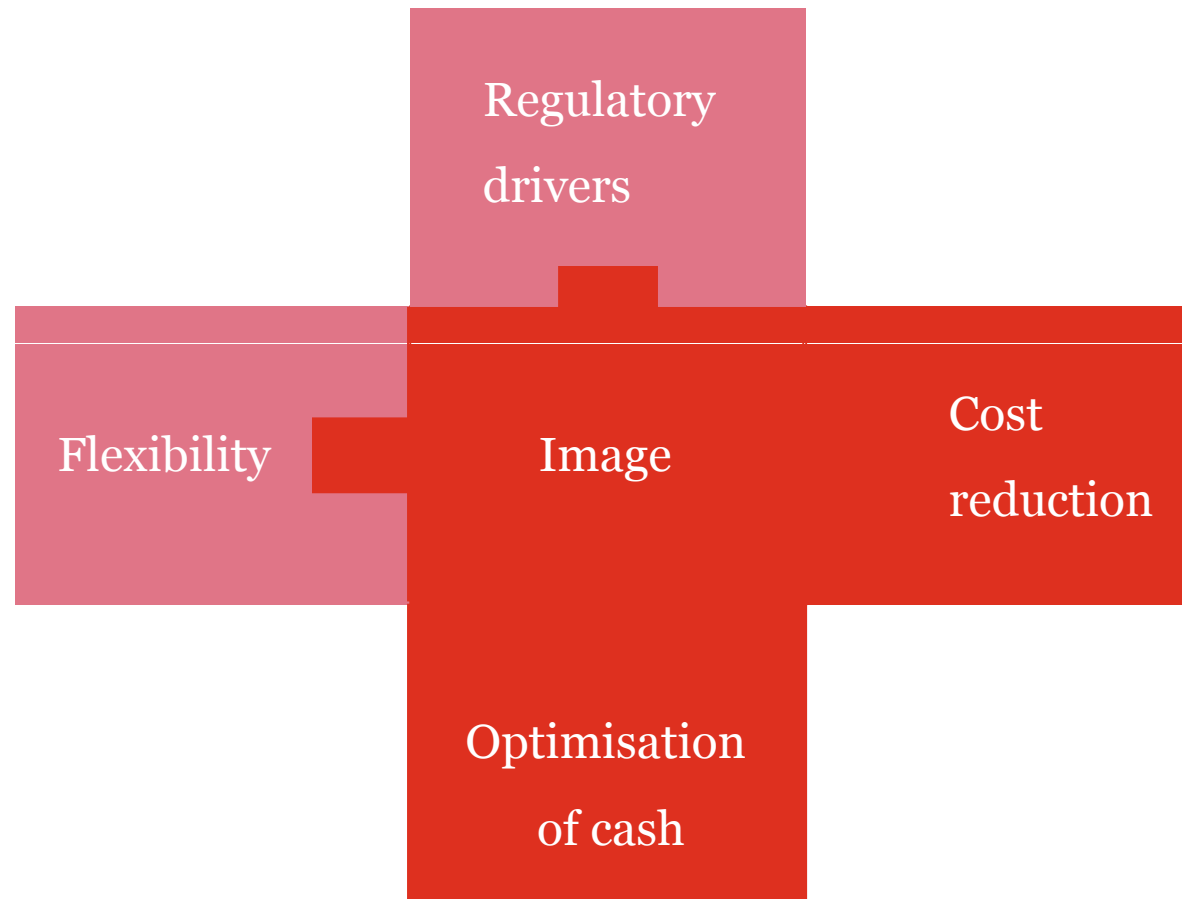


External Drivers

- Customer demand for one European interface
- Price transparency and deflationary pressures
- Customers and suppliers consolidating
- Competition from operators in lower cost locations, and local lower cost peers
- Shareholder scrutiny/corporate governance- Sarbanes Oxley demands
- View of Europe as one market
 - Introduction of international financial reporting (IFRS) standards and impact on reserves
 - Impact on investor confidence of overly complex structure
 - Single entity structures available since October 2004
 - Branding as an EU company

Corporate simplification in practice

Some why's to leave your status



Corporate simplification in practice

Some why's to leave your status

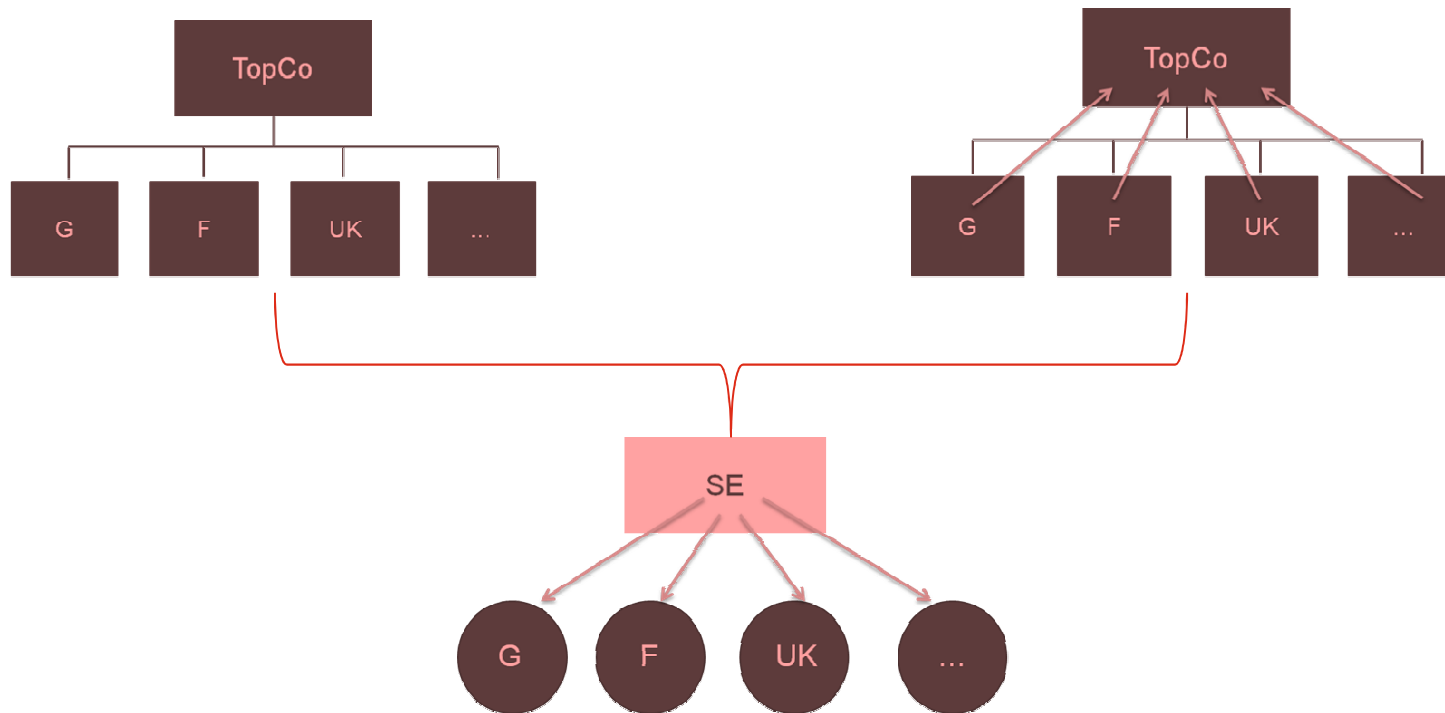
I. Regulatory drivers

- Banking and now insurance with Solvency II have been driven towards pan-EU single operating company structures to benefit from a single as opposed to multiple regulators/lower capital requirements
- Other businesses eg credit rating agencies have recently experienced a similar regulatory driver

Corporate simplification in practice

Some why's to leave your status

II. Cost reduction

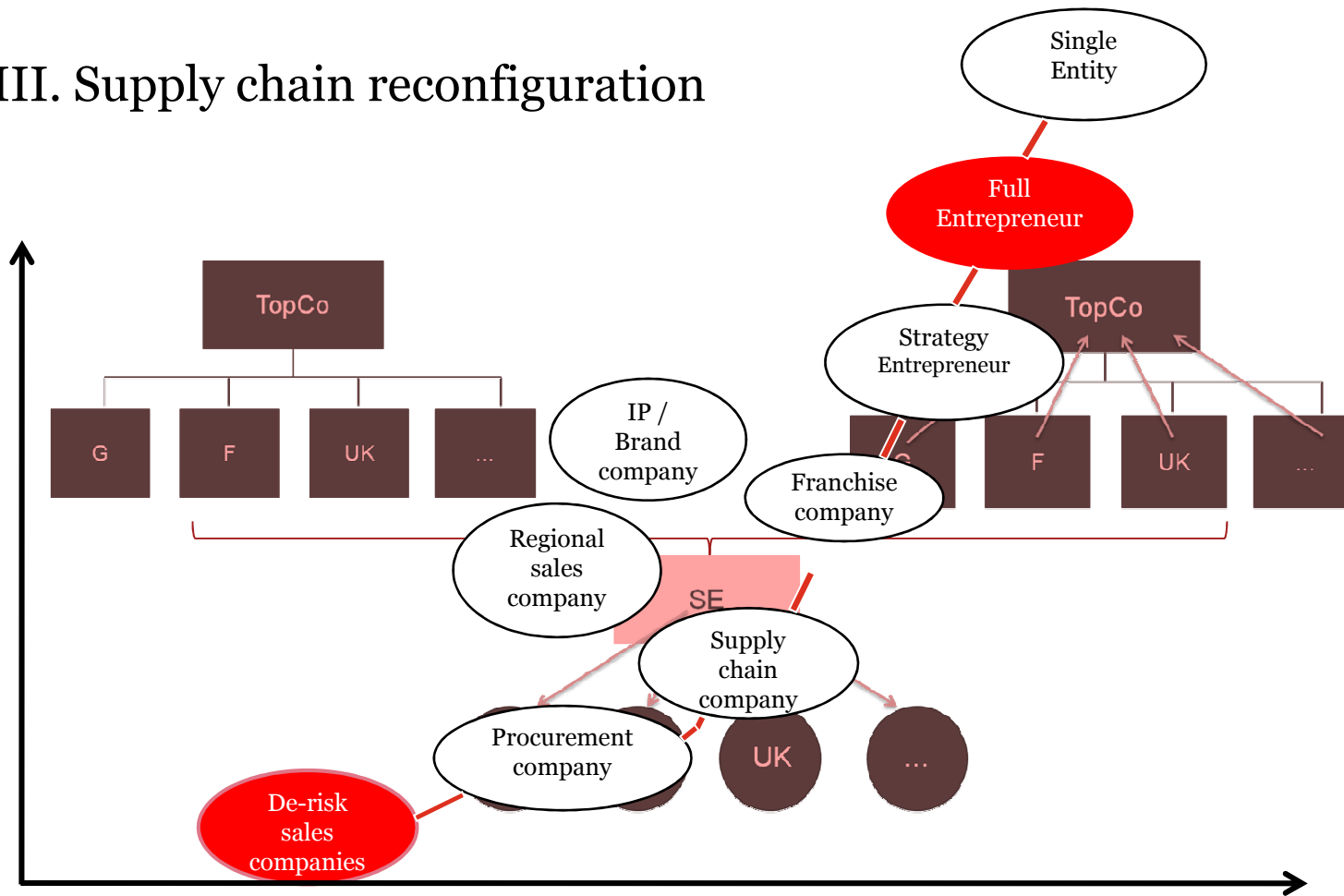


Be careful: tax planning? Cost reduction?

Corporate simplification in practice

Some why's to leave your status

III. Supply chain reconfiguration



Corporate simplification

Some why's to leave your status

IV. Image



The SE is a modern and internationally oriented corporate firm (*)

(*) Porche Press release 24 March 2007

Corporate simplification

Some why's to leave your status

V. Flexibility

SE for flexibility

- Choose “easiest” country for:
 - ✓ Holding companies
 - ✓ Tax
 - ✓ Social legislation
- OR JUST ‘ **A possible option** to transfer registered seat’
- ! Labor law considerations: employee information/consultation/participation: “driver” or “brake”?

Corporate simplification in practice

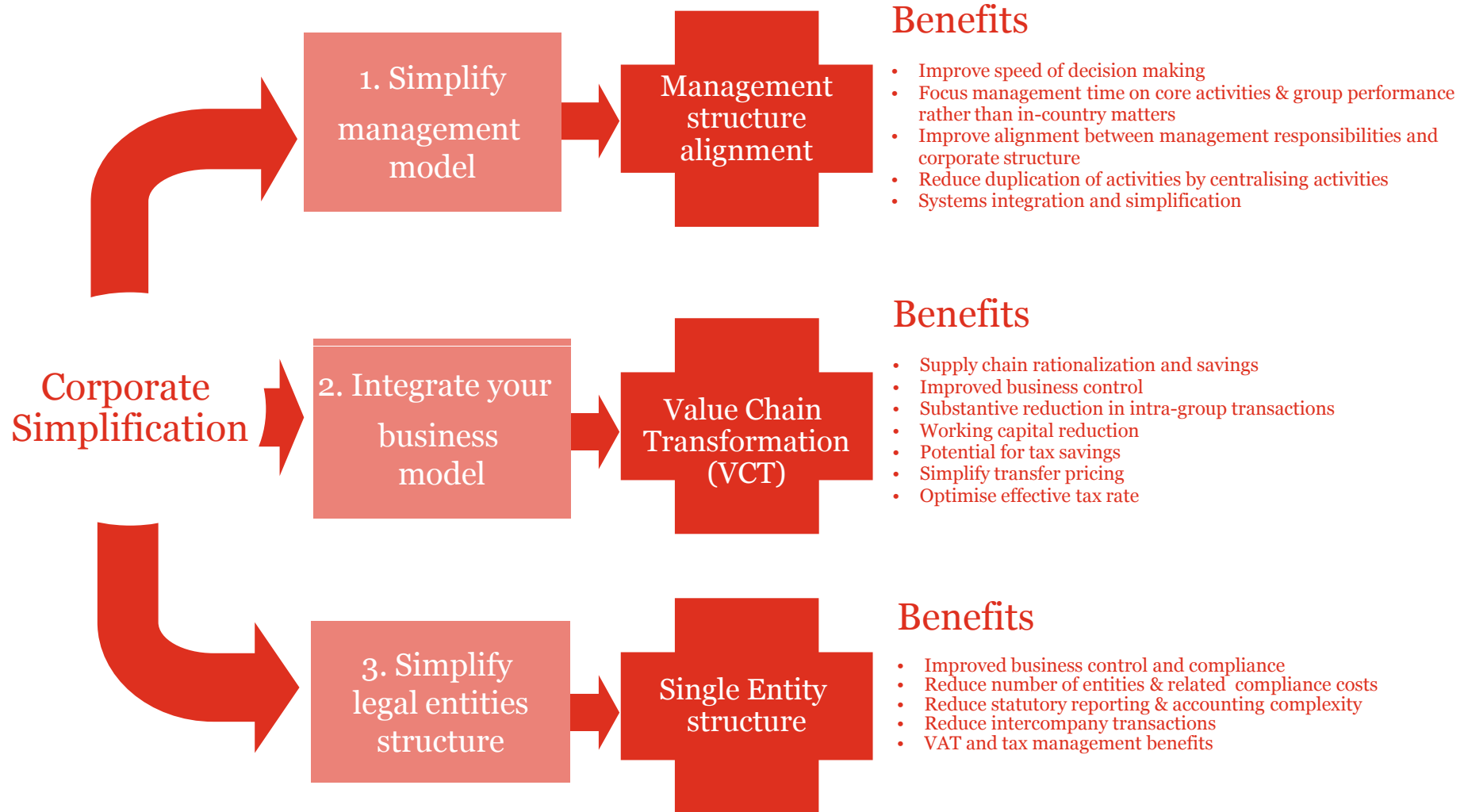
Some why's to leave your status

VI. Cross-border mergers/movements for tax/cash reasons

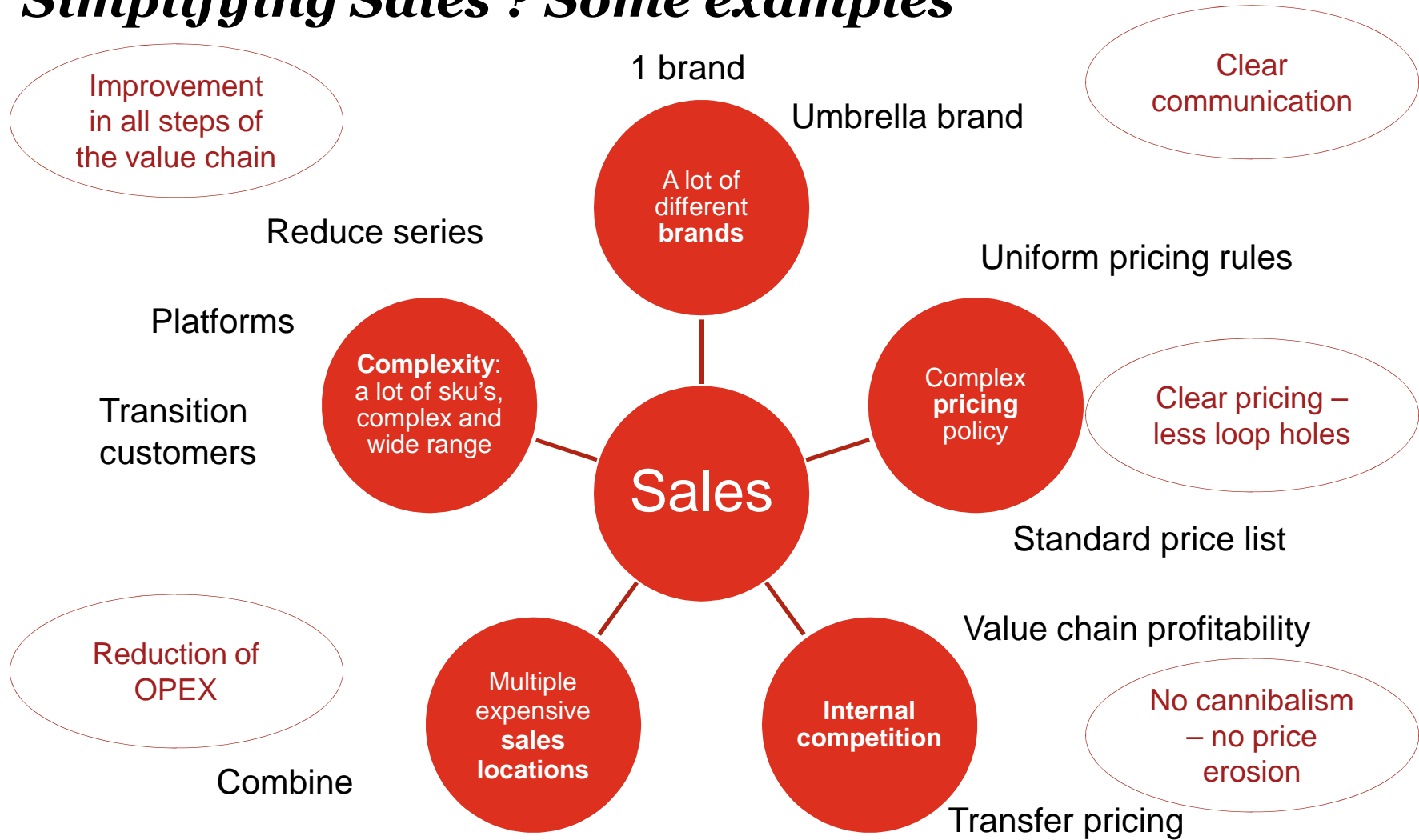
- Before x-border mergers directive vs now
- Greater **flexibility** to transfer risks/functions between head office/PEs of a single OpCo than between separate legal entities
- Probably more **flexibility regarding x-border loss offset** i.e. beyond M&S 'final losses'
- **No/less recognition** as regards dealings of intercompany profit
- **Solving timing issues** and **tax leakage** when upstreaming dividends

How are companies simplifying their business?

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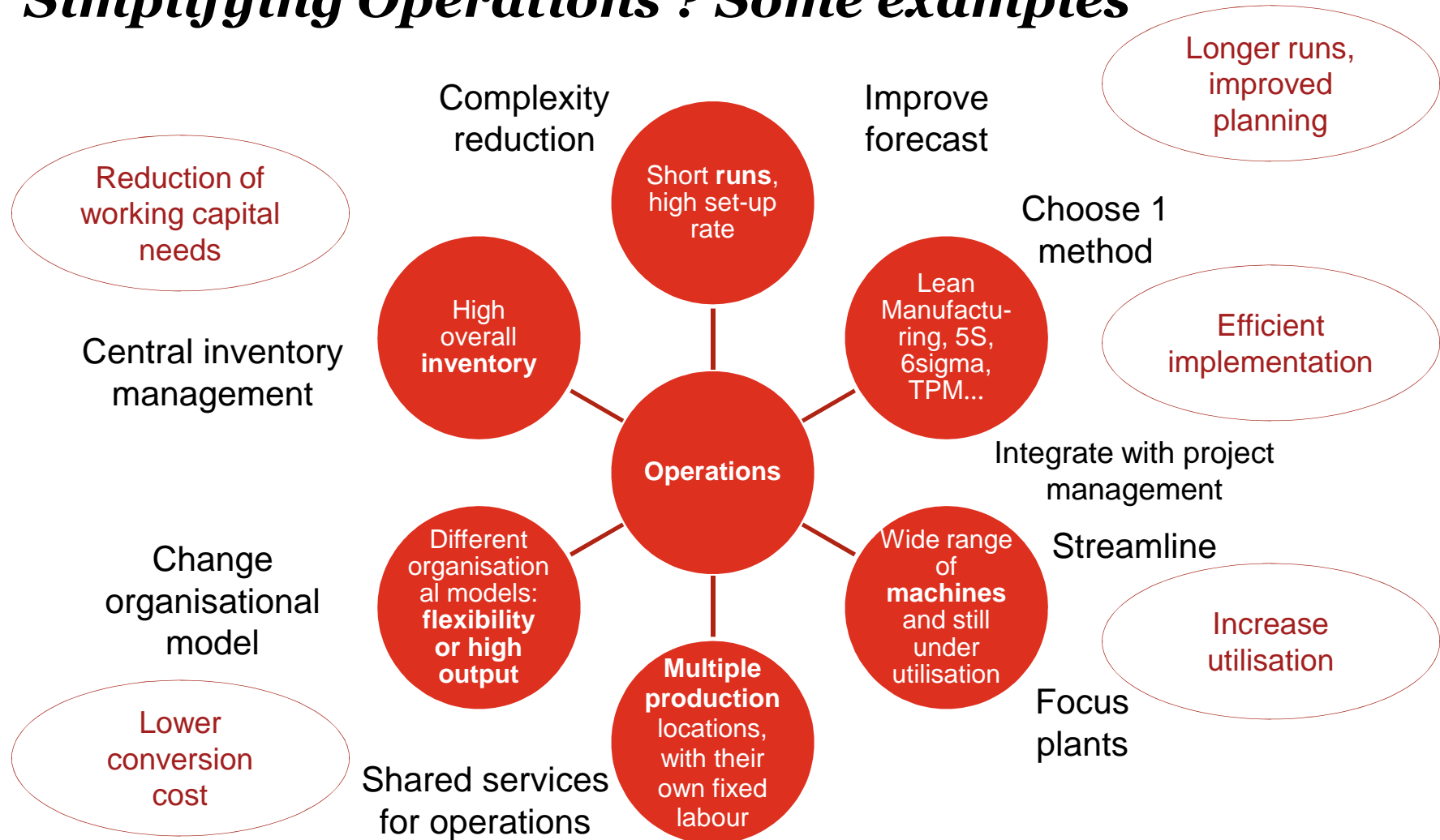


Simplifying Sales ? Some examples



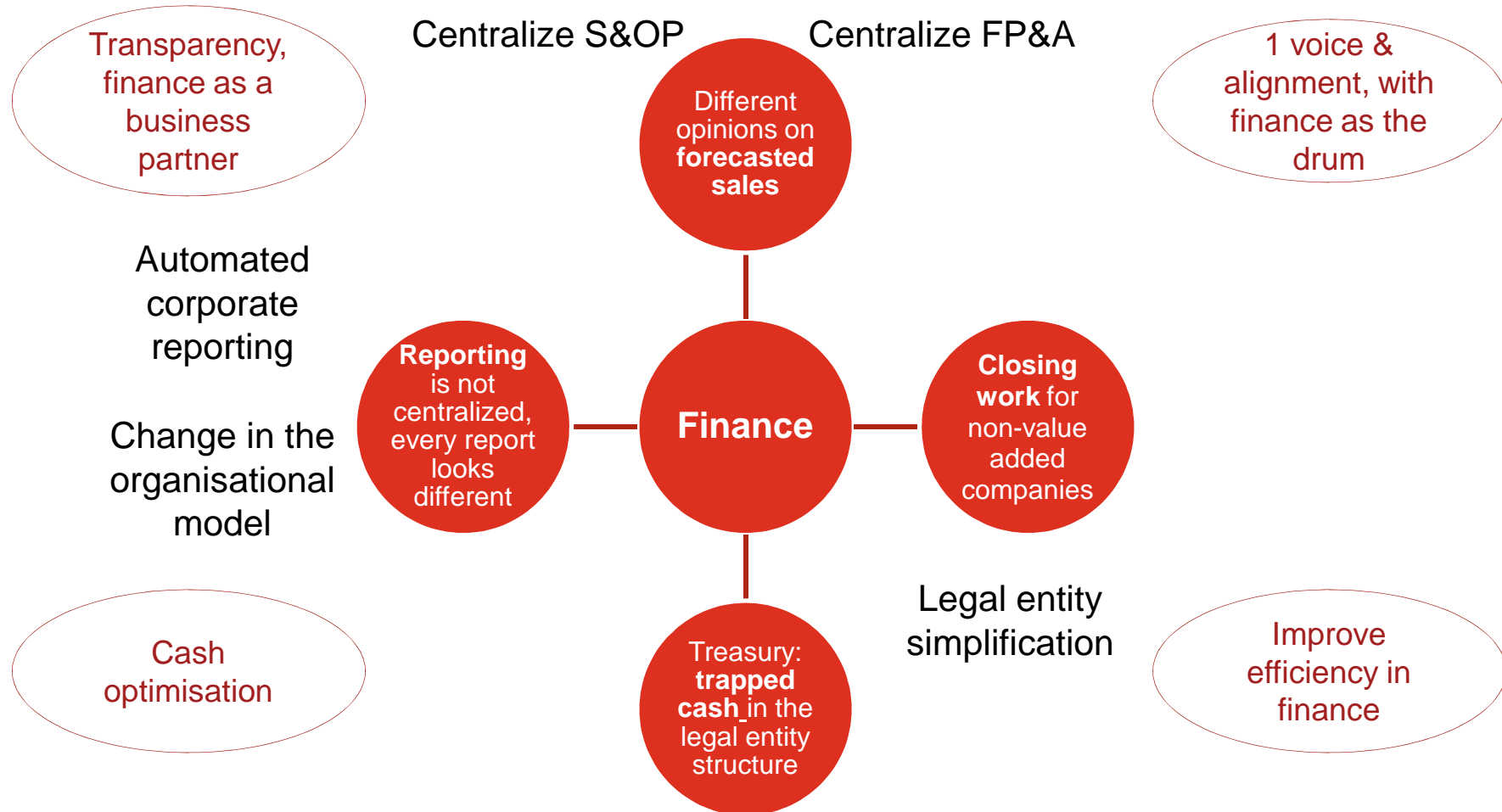
Done without change in the “face to the customer”

Simplifying Operations ? Some examples



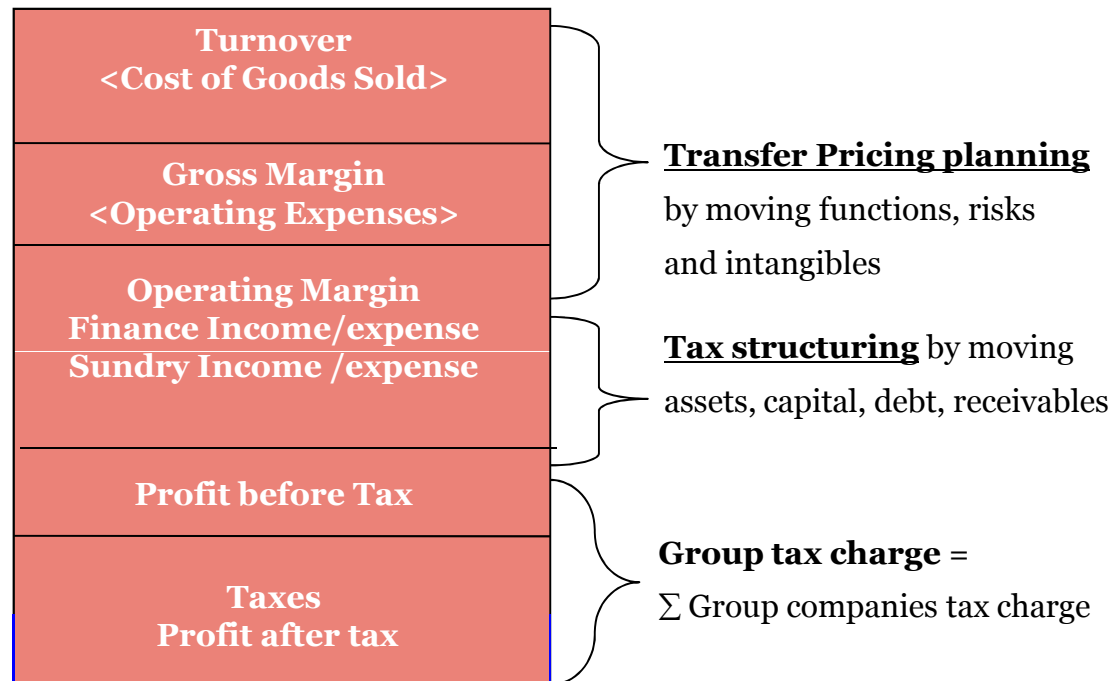
Done without major restructuring

Simplifying Finance ? Some examples



Simplifying creates a momentum of change

Align your business model / TP model with your industry and business strategy

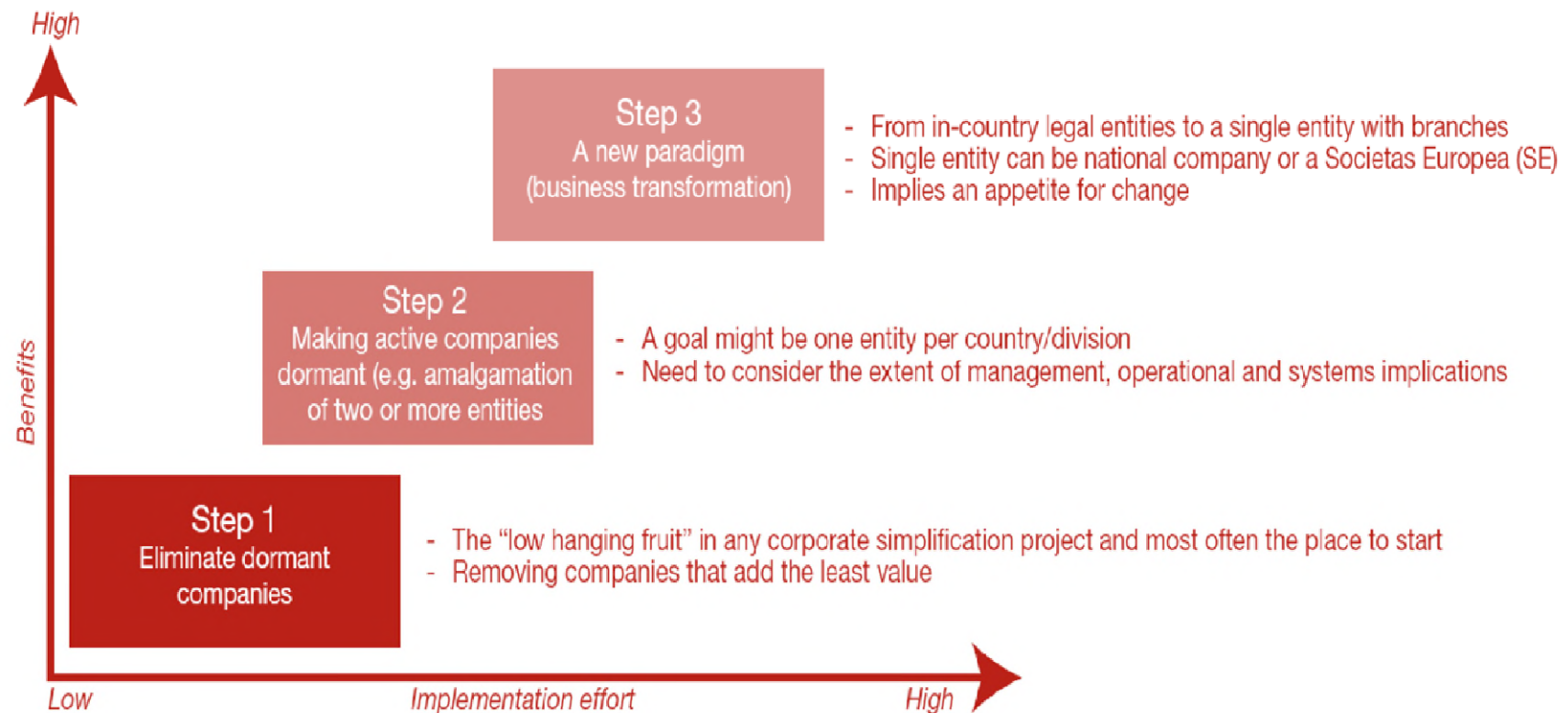


**A lower over-all effective tax rate
increases shareholder value**

- How optimized is the current business model?
- Is there an optimal moment to reshape your business model?
 - Manufacturing
 - Sales and marketing
 - HQ
- What is the Transfer Pricing angle of migrating functions, risks and assets and the profit allocation?
 - Exit tax
 - Disregarding the transaction?
 - OECD Guidance
- APAs can provide certainty
- VAT aspects of new model and related compliance

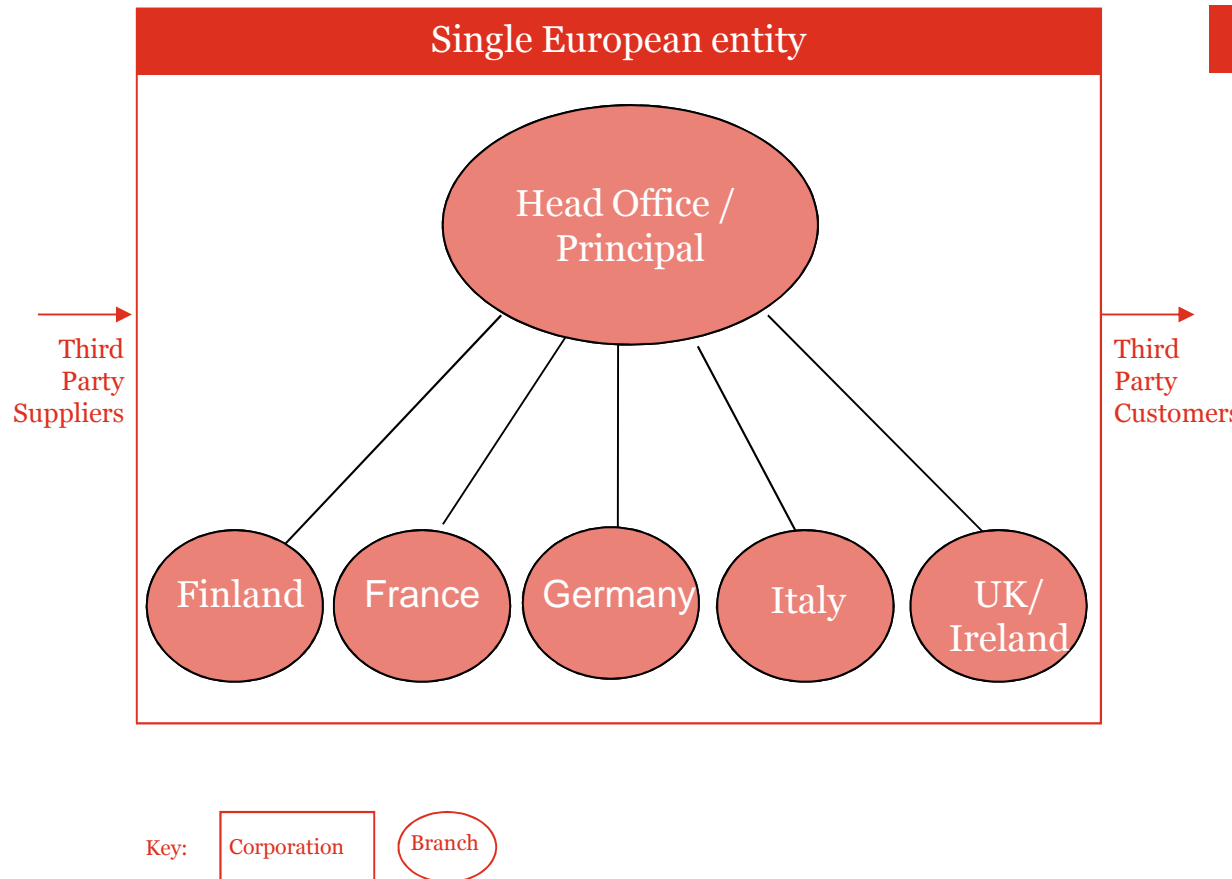
Simplification of legal structure

Working in stages



The single European entity model

Single European Entity Model



Features

A single European entity with branches addresses the complications that arise under the traditional structure

Primary benefits of a single entity structure include:

- Reduction of internal transactions and associated recording and reconciliations costs
- Regional decision making
- Improved corporate governance structure aligned with developing regional models
- Centralised management of risk
- Simplified and more cost-effective account filing and audit
- Branding as EU company
- Removal of local directors duties and non-value added activities
- Facilitates tax optimisation

Simplifying the organisational model: key message

Don't think "org-chart", think from the business functions you want to cluster and adapt your organisation

Classical approach: trying to reduce the FTE, by clustering 2 sites under 1 manager (shuffle org chart boxes)

Optimal approach: cluster around functions. (example: Inventory level management is a function which can be performed for multi-site)

Case study example

Establishment of the structure

Establishment of the structure

General remarks

- What works for particular territories is highly fact specific and heavily dependent on business model
- Although the result is a simplified tax and legal structure, the routes to get there are sometimes complex and can be lengthy (e.g. 6-8 months for a cross border merger)
- Transfer taxes need to be carefully considered in the design phase
- As a result of a single entity structure, debt will likely require refinancing and relocating, and unlikely to achieve same level of deductibility.
- Can in a lot of cases be combined with operational savings (in finance, in the supply chain, in sales or production process etc), increasing the total benefits.

✓ **THE KEY TO SUCCESS IS CAREFUL PLANNING**

Establishment of the structure

Indication of VAT aspects

- Qualifications of branches as VAT PE's or not (Corporate Tax is not VAT), requirement to register (multiple VAT registrations) and how to recover VAT
- Billing: from branch (if PE!) or from head office – invoice with VAT or reverse charge? New regulation (282/2011) on involvement of branch not very clear (article 53). How to solve (always invoice under PE's VAT id no?) – no proper outgoing invoicing, no income
- Possible differences between commercial/corporate tax accounting and VAT accounting / invoicing (allocation of revenue to PE or head office), with ERP complications
- Pro rata input VAT recovery on which basis – PE, global, other?

Establishment of the structure

Choosing a location

- Tax rate
- Branch exemption
- Parent company tax regime
- IP protection; regulatory regime – due diligence
- Attitude tax authorities (flexible or not, rulings, audits, consultations, etc.)
- VAT compliance obligations (clarity and burden)
- EU or non-EU?
 - Switzerland (especially in VCT context)
 - Belgium (also in VCT context)
 - CCCTB / CCTB
 - VAT aspects (e.g. refunds, VAT representation, taxation of B2C)

Maintaining the structure

Maintaining the structure

Allocation of profits – quid double taxation relief?

Article 7 OECD Model Tax Convention – Business Profits – July 2010

Report on the Attribution of Profits to Permanent Establishments – July 2010

Treat branch as a separate and independent enterprise – may be profitable and the rest of the enterprise loss making

2 step process:

1. Functional and factual analysis:

Transfer pricing

PE

Key value drivers

Key value drivers



2. Transactions with associated enterprises priced in accordance with OECD guidelines

What about internal dealings:

- Contractual agreements?
- Invoicing?
- Services?
- Interest payments?
- Royalties?

Some tips and tricks

Some tips and tricks

- Legal
 - A detailed step-by-step plan and timetable are key
 - Include in legal documents a detailed description of the business rationale as a defence to be used towards tax authorities.
- Sales, operations, finance and the organisation:
 - Pragmatic solutions, based on solid models, are always possible
 - Use the momentum of change
- Tax
 - Go for the low hanging fruit first
 - Perform a cost/benefit analysis, including tax benefits, per phase (importance of tax modelling!)

Speakers



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Director

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M&A Tax Director

Nancy De Beule is an M&A Tax director based in Belgium.

Nancy has been involved in a lot of major acquisitions, as well inbound as outbound, national and international reorganisations, IPOs, carve-outs and management buy-outs.

Furthermore, she has built up a lot of experience in corporate simplification and integration projects.

She speaks native Dutch and fluent French and English. Nancy is also a chartered accountant and chartered tax consultant and is chairman of the exam commission of the chartered tax consultants in Belgium. She also lectures at Brussels University (VUB) in tax matters, amongst others on Restructuring.



David Vermeersch
Senior Manager

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Deals Senior Manager

David leads the Operations and Post Deal Services business within the Belgian Deals Team. He specialises in leading operational due diligence projects (including synergy reviews), and advising clients on planning and executing of complex carve outs and post merger integration .

Prior to joining PwC, David had 13 years of experience of working in a large manufacturing company in the building industry, in which he has held several Finance and Operational roles. He was part of the M&A Integration team and led several PMIs (in Belgium, Germany, UK, Turkey and the US) within Operations, Corporate strategy and Sales. He also led the ICT team.

David will make sure the organisational and operational design are aligned with reality

Speakers



Bart Vrancken
Senior Manager

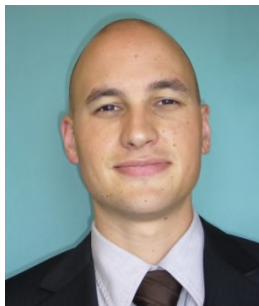
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M&A Indirect Tax Senior Manager

As a member of the M&A Tax team, Bart has developed a special expertise on assisting clients in the deal continuum, including due diligence, both sale and acquisition structuring, VAT modelling, VAT regularisations, optimisation of VAT recovery on deal fees and post acquisition integration of Indirect Taxes processes.

He has worked both for Private Equity and Strategic buyers and has been involved in several important Belgian as international projects.

Bart has a Master in Law and an additional Master in Tax Law. He lectures VAT at the Artesis University College in Antwerp.



Jonas Van de Gucht
Manager

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Transfer Pricing Manager

Jonas is a Transfer Pricing manager based in Belgium.

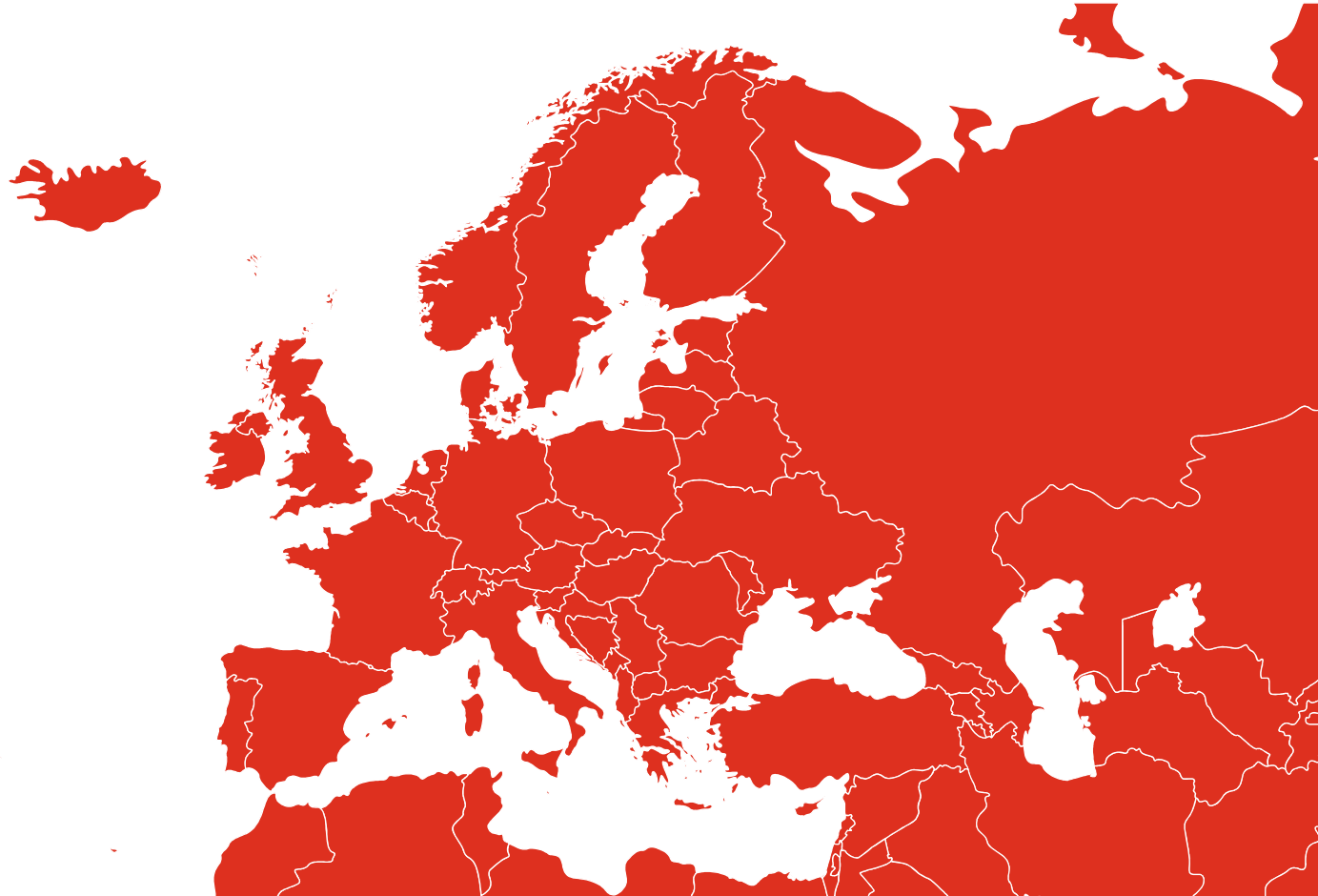
He has over 6 years of international tax experience of which 5 years in Transfer Pricing derived from working in Ghent as well as through a secondment at PwC Greece where he assisted in setting-up a team to cope with the strict local requirements.

His focus is on business restructurings, Fin 48 (and more general in Transfer Pricing Risk Management) and dispute avoidance (via both unilateral and multilateral APAs) and dispute resolution work.

He has a degree in Commercial and Financial Economics (Major in Taxation).

One single European entity

Thank you !



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