

Ireland - The ideal location for your funds

Your guide to setting up a
UCITS or AIF in Ireland

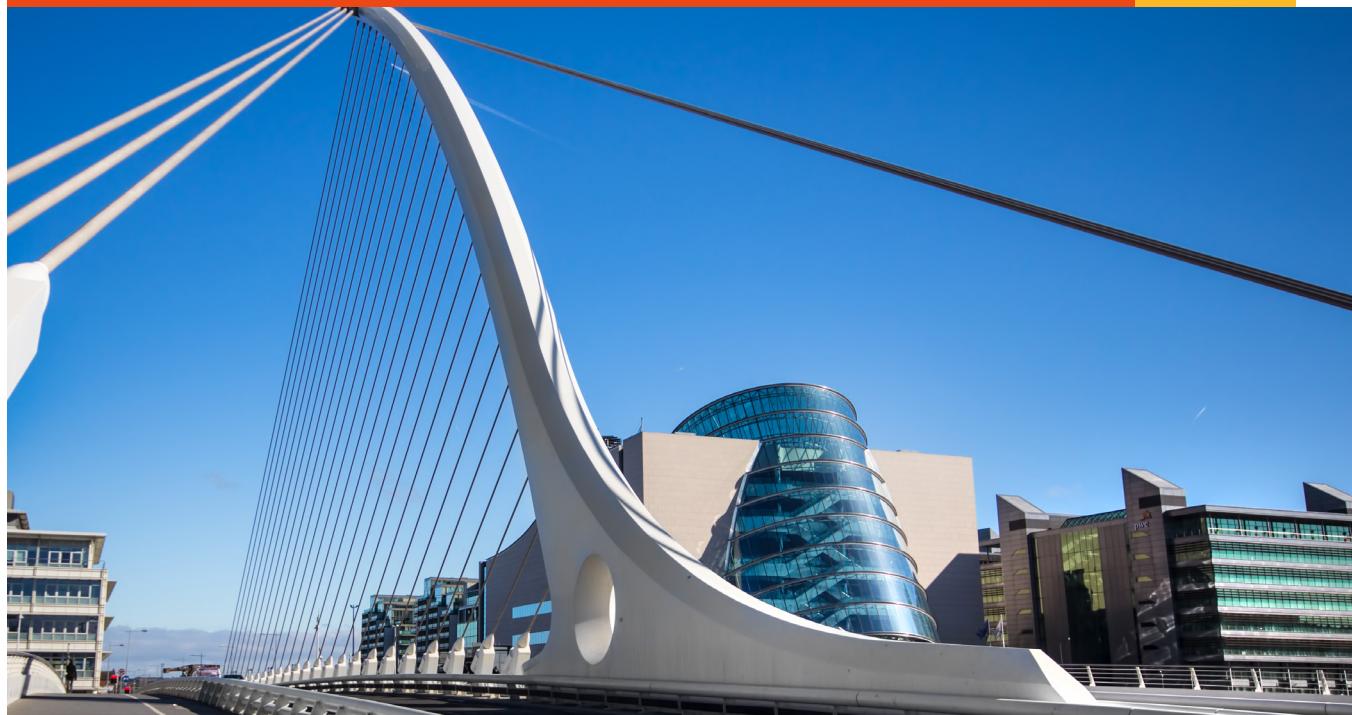


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Foreword

The global Asset Management industry continues to experience challenges with changes in regulation, technology, products and markets, not to mention the result of the UK referendum to leave the European Union (the “EU”). There are also great opportunities with a continuing rise in assets under management and an ever increasing need for experienced investment advice.

PwC Ireland remains very optimistic about the future of the industry. While there are increasing demands for transparency and reporting, this brings the Asset Management and Investor communities ever closer together and more aligned. While there are increasing pressures on costs, this brings exciting opportunities for consolidation, realising synergies and efficiencies. And while geopolitical risks have risen, this brings attractive investment opportunities in the search for yield and opens up new asset classes and markets to managers.

Ireland exports more to the UK than any other EU country, including UCITS and AIFs domiciled or serviced from Ireland. UK based managers to these products will be keen to maintain their ability to manage these assets post Brexit and Ireland will be the only English-speaking gateway to Europe, offering uninterrupted access to the EU market of 450 million people.

PwC estimates that assets under management in Ireland have the potential to grow to in excess of US\$5 trillion by 2020. We saw clear signs of this growth trajectory in 2016. It was an exceptionally strong year, with record levels of net sales and net assets of funds domiciled in Ireland increasing by 9.8% to €2,085bn (2015 1,899 EUR bn). In addition, the Irish industry

provides administration services to an additional €2 trillion of fund assets domiciled elsewhere, bringing the total value of assets under administration to €4.1 trillion.

This cemented Ireland’s position as the 2nd largest in Europe and the 3rd largest global centre, acting as a home domicile for 5% of world-wide investment fund assets.

The funds industry continues to be a source of high value employment in Ireland with total employment in excess of 14,000 skilled professionals in the sector. This level of expertise makes us a centre of excellence, supported by a rich ecosystem of global service providers. 480 promoters from 38 countries have chosen Ireland, attracted here by the open, transparent and well-regulated investment environment for retail and alternative funds.

PwC can help you navigate the most challenging issues with confidence. We are delighted to continue our market leading position as Ireland's No. 1 auditor to the asset and wealth management industry in Ireland. Our team of almost 400 dedicated asset & wealth management professionals with unrivalled industry insight and experience are ready to assist you with your audit, tax, advisory, regulatory and distribution needs across all products and asset classes.



Patricia Johnston
Irish Asset & Wealth Management Leader

Introduction

Ireland has a worldwide reputation as a significant centre for international banking, funds and insurance. The country's international financial services sector has witnessed dramatic growth and phenomenal success since its launch in 1987.

International financial services plays an important role in Ireland's export-orientated, open economy, attracting significant numbers of foreign-owned companies to Ireland. The core of Ireland's international financial services industry are the over 400 companies that provide internationally-traded financial services and technologies. Half are Irish -owned companies, with the other half being foreign-owned. As of end-2016, these companies directly employ over 40,000 people.

Ireland's track record as a regulated and internationally recognised jurisdiction, with unrivalled expertise and experience in retail and alternative investments, offers a compelling set of advantages for fund managers considering where to domicile an Alternative Investment Fund or a UCITS fund. Also increasingly fund managers are choosing Ireland to locate key asset management support activities such as fund oversight, risk management and compliance as well as shared services and product innovation centres.

Ireland has world class expertise in servicing complex funds. Irish service providers have developed market driven investment product solutions tailored to the needs of Investment Fund Managers. PwC Ireland has a wealth of experience in working with the alternative investment funds and UCITS industry.

With over 1,200 international companies here¹, Ireland is one of the most favoured global locations for investment. In recent years, Ireland has seen a broadening of its investor base.

Six out of the top 10 companies on the Forbes list of the world's most innovative companies in 2016 have Irish operations.

With our combination of skills, experience, english language, western european time zone and transparent tax regime we believe Ireland is the ideal location for your funds.

60%

of the world's top 25 financial services companies have operations in Ireland¹

¹ Source IDA Ireland



Centre of Excellence

1. Over 1,200 multinational companies have already chosen Ireland as their strategic European base.
2. Companies located in Ireland benefit from barrier free access to over 500 million consumers in Europe, one of the largest markets in the world.
3. The only English speaking country in the Eurozone.
4. Currency Euro.
5. Government system: Republic, parliamentary democracy and a stable political environment, Ireland is member of the European Union (EU) and is also a member of most major international organisations.
6. Travel: Over 2,000 flights a week leave from the 3 main airports. The travel time is just 1 hour to London, 2 hours to central Europe and 5 hours to the US.
7. 71% of global investment managers surveyed chose Ireland as a Top 3 European domicile. This is over 25% more than its closest rivals ².

Favourable Tax environment

- 12.5% corporate tax.
- No subscription or net asset fund taxes.
- No transfer taxes.
- Generous VAT exemptions for funds.
- Extensive tax treaty network with over 70 countries³.
- Full compliance with international tax standards.
- Ireland is a signatory to FATCA Model 1 IGA.

Service providers

- Promoters of Irish administered funds: 887.
- Promoters of Irish domiciled funds: 480.
- Promoters of non-Irish domiciled funds: 407.
- Administrators: 45⁴.
Depositaries: 19⁴.
- Employed in funds industry: over 14,000.
- 17% of Ireland's population is international and multilingual.
- 30 languages and 28 currencies are fully supported in the Irish funds industry.
- Global hedge funds serviced from Ireland: 40%⁴.
- European ETFs domiciled in Ireland: 56%
- Ireland is a major cross border hub distributing funds to 70 countries worldwide.

Access to over
500 million
consumers in Europe, one
of the largest markets in
the world



² Economist Intelligence Unit Survey on Choosing a European Fund Domicile, 2014 of Economic Freedom.

³ www.revenue.ie

⁴ Monterey Insight Ireland Fund Survey 2016

Ireland - Your gateway to the world⁸

- 887 fund promoters from 53 countries (352 UK, 189 US, 56 Swiss Companies, 68 Asian Companies, 222 others) have chosen Ireland as their international hub⁶.
- €4.1 trillion investor assets are serviced by Irish service providers.
- Ireland's service providers support 28 currencies and 30 languages.
- Irish funds distribute to over 70 countries in Europe, Asia, the Middle East and the Americas.
- The world's top ten ICT companies have operations in Ireland⁶.
- 95% of multinational companies rate their investment in Ireland a success and 9 out of 10 CEOs plan to expand or maintain their investment in Ireland⁷.
- Ireland is leading the drive for greater efficiencies through fund processing standardization.

Irish funds industry has exceeded expectations in 2017

- Net assets in funds domiciled in Ireland increased by 16.3 percent to €2,230 bn (30 June 2016 €1,917 bn) overall, net assets of UCITS increased by 14 percent to € 1,693 bn (30 June 2016 €1,447 bn). Net assets of non UCITS increased by 14 percent to €537bn (30 June 2016 €470 bn).
- Net sales of Irish UCITS in 2017 to date were €377 bn.

**Over €4.1 trillion
investor assets are serviced
by Irish service providers
from 167 countries**

**Significant growth
in the Irish funds
industry in 2017**



⁶ Forbes list of the world's most innovative companies in 2016

⁷ The PwC 2016 CEO Pulse survey

⁸ Central Bank of Ireland, EFAMA and Irish Funds June 2017

European Investment funds - UCITS or AIF?

European investment funds are either regulated as UCITS funds under the UCITS directive or as non-UCITS or alternative investment funds (“AIFs”) under the Alternative Investment Fund Managers Directive (“AIFMD”).

The UCITS product has had huge success since its inception in 1985. Now 30 years old, UCITS have gone from strength to strength, with over 30,026 UCITS funds with approximately €8.6 trillion in assets, as at the end of 2016, according to EFAMA. EFAMA also reported that the net assets in European non-UCITS amounted to €5.4 trillion at the end of 2016 and that the growth rate in non-UCITS assets in 2016 was 7%².

Investment managers wishing to market and distribute AIFs in Europe must consider the implications of the AIFMD on the distribution of their funds in Europe. All AIFMs located in the EU whether they manage EU or Non-EU AIFs are subject to the AIFMD. The AIFMD also captures marketing within the EU of AIFs managed by an AIFM located outside the EU.

The first step in establishing your fund in Ireland will be to determine whether your fund will fall into the UCITS or AIF category.

To do this it is necessary to consider the activities of the fund, its scale, its investors or shareholders and its goals or investment policies.



Ireland is the 2nd largest fund domicile in Europe²



² Source EFAMA September 2017



UCITS
or AIF

UCITS

Retail or Professional

No Minimum Investment

10/5/40 Rule

Regulated Markets

Limited Borrowing

Limited Derivatives

Well Diversified

UCITS 10/5/40 rule stipulates that no more than 10% of the net assets of the fund may be invested in instruments of any one issuer. Also, 40% of the net

assets must not contain exposure exceeding 5% to individual issuers. If so your fund comes under the UCITS framework.



UCITS
or AIF

AIF

Qualified Professional

€ 100,000+ Investment

Not a
retirement or
special
purpose
fund

Not
an employee
participation
fund

Few
investment
restrictions

Few
derivative
restrictions

May invest
through
unregulated
markets

If the following conditions apply to your fund then it is most probably subject to the AIFMD.

- Does the fund or a subcontracted party manage an AIF holding assets in excess of €100 million or in excess of €500 million with a prohibition on redemption in the first 5 years?
- Does the AIFM currently (or have future plans to) manage an EU AIF or market an AIF to EU investors?
- Is it a collective investment scheme whose purpose is not retirement, employee participation, UCITS nor any other special purpose entity?

Why Ireland for UCITS⁹

- Over 75% of the assets in all Irish domiciled funds are UCITS.
- Ireland is a major hub for cross border distribution.
- Irish UCITS are distributed in over 70 countries.
- Ireland is the fastest growing major cross border UCITS domicile – over the past ten years (2005 - December 2016) the net assets of Irish UCITS have grown by 212%.
- Ireland has 30% of the market share in EU Money Market Funds, €486bn.
- Over 7,000 fund classes are listed on the Irish Stock Exchange and 56% of European ETFs are domiciled in Ireland.
- €1.5 trillion of UCITS assets located in Ireland.

**€1.5 trillion
of UCITS assets located in Ireland**



⁹ Central Bank of Ireland, EFAMA and Irish Funds December 2016

Setting up a UCITS Fund

General Restrictions regarding eligible investments

Investments in transferable securities, for example equities and bonds, must have good liquidity and must, in general, be traded on a regulated market.

If a security is not traded on a regulated market then the fund must give consideration to its liquidity and assess its negotiability. These transferable securities must have a reliable valuation available which is regularly assessed. They must be transferable and their risk profile must be consistent with the fund's stated investment objective and goals. Unduly illiquid securities must not form part of the portfolio.

In general a UCITS will not be permitted to invest in any closed end funds unless the closed end fund meets certain corporate governance and regulatory requirements.

Deposits should only be placed with credit institutions in the European Economic Area, or residing countries which are signatories to the Basel Capital Convergence Agreement 11 of July 1988 or institutions authorized in Jersey, Guernsey, Isle of Man, Australia or New Zealand.

Investments in financial derivatives are permitted subject to several conditions. The risk profile of the derivatives must not diverge from the UCITS investment objectives.

A UCITS may invest in a financial index subject to several conditions regarding its components, calculation, valuation and publication. Due diligence must also be performed by the UCITS.

Deposits with a credit institution shall not exceed 10% of net assets with any one credit institution or 20% in the case

of the depositary. Similarly no more than 10% of net assets may be invested in securities of any one issuer. In addition to the limits above another 40% of the funds' net assets must be made up of individual holdings which comprise no more than 5% of the issuers net assets.

Investments in collective investment schemes are limited to a maximum of 20% with any one issuer and a maximum of 30% invested in all non UCITS funds.

Exposure to any single OTC derivative counterparty must not exceed 5% of net assets or 10% for certain institutions. Borrowings are limited to 10% of net assets.

Investments in "other securities" not listed on a recognised market are limited to 10% of net assets.

Supervisory Rules

UCITS, including each subfund or an umbrella fund must be authorised by the Central Bank of Ireland "CBI". The prospectus for each fund must be submitted along with details of agreements with the administrator, depositary and any other third party involved. The CBI must also be notified in advance of any significant amendment to the prospectus or Key Investor Information Document (KIID, see page 11) and if the changes are considered "material" then investors must be notified before these changes come into effect.

If any change in third party service providers is proposed, the CBI must be notified and it reserves the right to refuse the change. If the depositary is changed the CBI will insist on written confirmation from both the old and new depositary that the transfer of assets was satisfactory.

If the UCITS engages in securities lending it must retain at all times the right to recall the security or to terminate the lending.

Mandatory reporting to CBI – monthly and quarterly

On a monthly basis UCITS must submit an online report to the Statistics Division of the CBI. This report must detail, amongst other things, the fund currency, gross assets at month end, net assets at month end, number of units in circulation, NAV per unit, subscriptions, redemptions and repurchase payments during the month, profit and loss for the month, management fees and other expenses.

Each quarter, within ten days of the end of that quarter, all UCITS must submit a Money Market and Investment Fund (MMIF) return to the CBI. These ongoing reporting requirements are usually carried out by the administrator.

Annual and mid-year reports

UCITS must submit their first set of accounts to the CBI within specific time limits of the launch date. The CBI specifies information which must be stated in the annual and mid-year financial reports, such as assets and liabilities broken down by category, an analysis of the portfolio, a description of and rationale for derivatives in the portfolio. Details of any soft-commissions paid, distributions out of capital and a depositary's report are also required. Any open financial derivative positions must be marked to market.

Prospectus Document

The UCITS must comply with the terms of its prospectus. No material change can be made to the investment objectives without the consent of a majority of the unitholders at a general meeting. (In the case of the new ICAV vehicle a general meeting may not be required, refer to page 13.) The prospectus must be available free of charge to all potential investors. In the case where a material change is made to the prospectus then existing unitholders must be notified and allowed the possibility of redeeming their investment before the change becomes effective.

Any potential conflicts of interest between the fund manager, management company and any third parties must be addressed in the prospectus along with details of any soft commissions.

The UCITS prospectus must contain a general risk warning that unit prices fluctuate and can go up or down. It must list the stock exchanges, markets and regulated derivative markets on which the assets it intends to invest in are traded. Its investment policy must be disclosed in the prospectus as well as any intention to target specific countries, regions or industries.

If a UCITS intends to invest in financial derivatives it shall disclose the types of derivatives targeted and the extent of any potential leverage. Fund of funds, index tracking strategies etc. must all be disclosed in the prospectus.

Also a UCITS investing over 20% of net assets in emerging markets or over 30% in sub-investment grade bonds must contain a clear warning to indicate this.

If a minimum size is set for the UCITS the prospectus must state that if fund raising fails to meet this target then any subscriptions will be returned to the unitholders.

Ireland's ICAV provides an investment vehicle tailored to the needs of asset management

Key Investor Information Document (KIID) – UCITS

UCITS are required to produce a short document written in plain language and free from jargon to explain to investors the main features and risks of the fund. Strict rules are laid out by the European Securities and Markets Authority (ESMA) regarding the content and format of the KIID. It must be written in plain, easily understandable language and generally must not exceed two A4 pages in length. The KIID must also comply with additional CBI rules in the CBI UCITS regulations and related guidance.

The following sections must be contained in the KIID.

- a) Title and introductory statements.
- b) Objectives and investment policy.
- c) Risk and reward profile - Synthetic Risk and Reward Indicator (SRRI).
- d) Charges for this fund - Total expense ratio (TER)/ongoing charges figure.
- e) Past performance.
- f) Practical information.

If a new sub fund is added to an umbrella UCITS then a new KIID must be submitted to the CBI prior to the approval of the new fund. Any material amendments to the KIID must also be forwarded to the CBI.



UCITS V

The UCITS V Directive (2014/91/EU) brought the UCITS regime into line with the AIFM Directive and introduced more prescriptive measures. The main focus was on clarifying the role, eligibility, responsibility and liability of depositaries in order to increase investor protection and avoid conflicts of interest which could cause excessive risk taking.

The Directive:

- clarified the depositary role including the eligibility criteria for depositaries and depositary liability, aligning them with corresponding provisions in the AIFMD, and also clarifying the UCITS depositary functions and delegation;
- imposed rules on remuneration policies to be applied to key members of the UCITS managerial staff in order to encourage sound and effective risk management; and
- harmonised minimum administrative sanctions with maximum penalties of €5 million (or 10% of annual turnover) for a company or €5 million for individuals.

EU Member States had until 18 March 2016 to apply additional requirements and to adopt and publish the laws, regulations and administrative provisions necessary to comply with the Directive. The UCITS V Directive was transposed into Irish law on 21 March 2016 by way of the European Union (Undertakings for Collective Investment in Transferable Securities) (Amendment) Regulations 2016, which took effect from the same date.

On 24 March 2016, the UCITS V Level 2 Regulations regarding the obligations of depositaries was published in the Official Journal of the EU. It came into force on 12 April 2016 and applied from 13 October 2016.

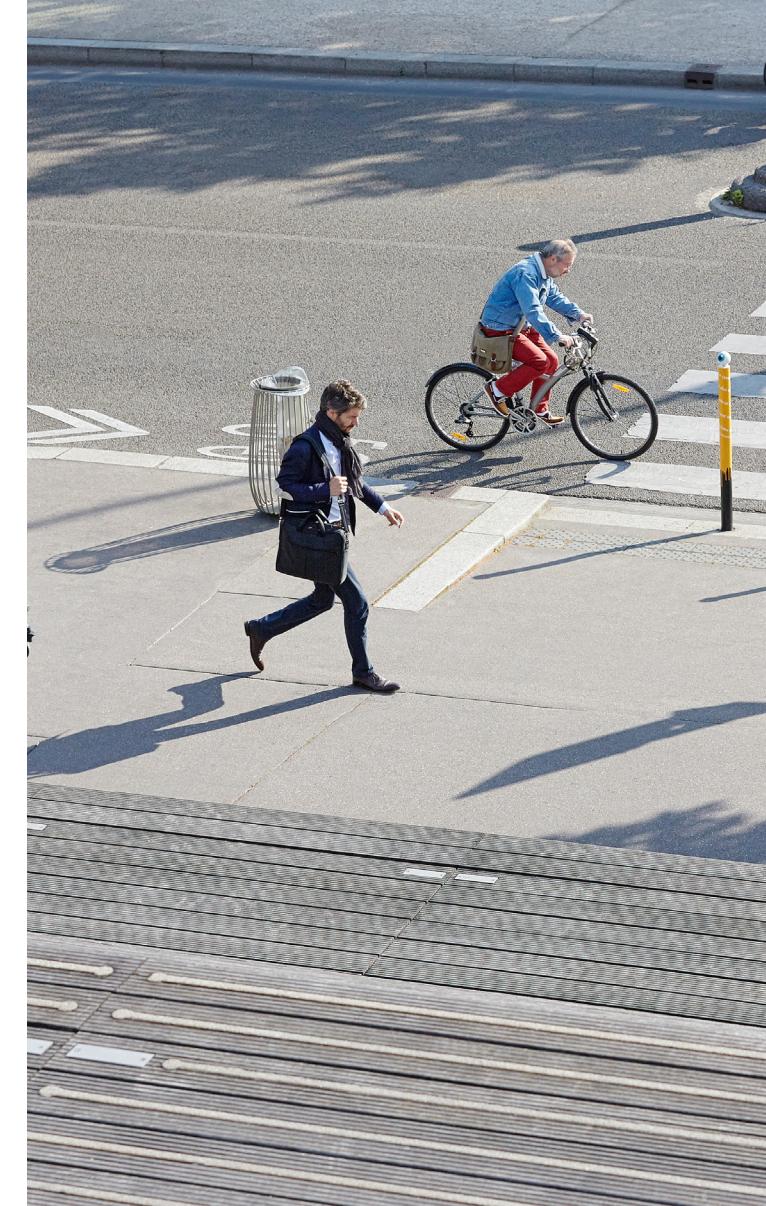
A summary of the measures imposed by the Level 2 Regulations are as follows:

- Particulars to be included in the contract for the appointment of a depositary;
- Depositary duties, due diligence requirements, segregation obligation and insolvency protection;
- Loss of financial instrument and liability discharge;
- Independence requirements, appointment of the depositary, delegation of safekeeping and conflicts of interest.

Guidelines on sound remuneration policies under the UCITS Directive and AIFMD

ESMA published its final Guidelines on sound remuneration policies under the UCITS Directive, on 14 October 2016.

The UCITS Remuneration Guidelines clarify the requirements under the UCITS Directive for management companies when establishing and applying a remuneration policy for key staff. The Guidelines strive to ensure a convergent application of these provisions and offer guidance on the governance of remuneration, requirements on risk alignment and disclosure. They apply to UCITS management companies and self-managed UCITS from 1 January 2017.



Ireland's ICAV legislation continues to present new opportunities for Fund Managers

The introduction of the ICAV Act in March 2015 has proved to be a success. With 300 ICAVs already set up since then, it has become the vehicle of choice for promoters.

The ICAV is a corporate vehicle designed for Irish investment funds. It sits alongside the public limited company ("plc"), which has been the most successful and popular of the existing Irish collective investment fund vehicles to date. An ICAV can be incorporated with the CBI and provides a tailor-made corporate fund vehicle for both UCITS and AIFs.

Meeting the needs of the Asset Management Industry

The ICAV is not a company under the Irish Companies Acts, but rather a corporate entity with its own facilitative legislation that has been drafted specifically with the needs of Collective Investment Schemes in mind. This should result in lower administrative costs for an ICAV. In addition, an ICAV can also select the regulatory regime to apply and can be structured as a UCITS or an AIF. The governing requirements for the preparation of financial statements for an ICAV follow the requirements for UCITS and AIFs. The ICAV is governed by an instrument of incorporation ("IOI"), similar to the memorandum and articles of association of a plc. The IOI is the constitutional document of the ICAV. Like a plc, an ICAV is required to have a board of directors to govern its affairs and similar to other collective investment schemes the ICAV may be self-

managed or externally managed. The ICAV also offers flexibility in terms of which accounting standards can be used in the preparation of financial statements, including Irish, UK, US, IFRS, Japanese and Canadian.

"Check the Box"

ICAV is able to elect its classification under the US check-the-box taxation rules and as a result can be treated as a partnership for US tax purposes. This avoids the adverse tax consequences for US taxable investors which arise where the structure is deemed to be a 'passive foreign investment company' (PFIC) for US federal income tax purposes. The ICAV thereby enhances the attractiveness of Irish funds to investment managers seeking to market their funds in the US.

Re-domiciliation of Offshore Funds to Ireland

Given the ICAV's ability to "check the box" for US tax purposes, there is an opportunity for existing offshore funds to re-domicile to Ireland and continue to maintain favourable tax treatment for their US taxable investors. Irish legislation provides for the efficient and effective re-domiciliation of funds to Ireland. It allows offshore corporate funds from certain prescribed jurisdictions to migrate to Ireland by re-registering as an Irish UCITS or AIF authorised by the CBI while maintaining its legal identity. Funds from the following jurisdictions can re-domicile to Ireland in an efficient manner: The British Virgin Islands, The Cayman Islands, Jersey, Guernsey, Bermuda and The Isle of Man. One of the key benefits of the provisions is that, given that there is no change in legal identity, the migration should not

constitute a taxable event for investors. In addition, the fund should retain its performance track record post migration. The simplified procedure for re-domiciling a corporate fund to Ireland can be measured against other jurisdictions, where the process is less straightforward. For existing plc structures, there is an option to convert to the new ICAV structure.



UCITS Management Company Requirements

Capital requirements – management company

A UCITS management company must have initial capital equivalent to the higher of :

1. €125,000 plus, if applicable, an additional amount of 0.02% of the amount by which net assets exceed €250 million. or
2. One quarter of its total expenditure in its most recent annual accounts.

The additional amount can be reduced by 50% if a guarantee of that same 50% is available from a credit or insurance institution and the CBI has approved the form of the guarantee. This credit institution must have a registered office in an EU member state or be subject to regulation similar to EU laws. The minimum capital requirement is subject to an upper limit of €10 million.

The minimum assets must be kept in the form of 'Eligible Assets' as defined by the CBI:

- Held in an easily accessible form free from any liens or charges;
- Maintained outside the UCITS management company's group in a separate account;
- Held in an account separate to the UCITS management company's day to day account;
- The CBI must be provided with recent documentary evidence of the location of the eligible assets.

It is important to note that investments in funds promoted by other companies within the management company group will not be considered as eligible assets for capital adequacy purposes by the CBI. The ManCo must be in a position to demonstrate it's ongoing compliance with this capital adequacy requirement.

Capital requirements – self-managed UCITS

A UCITS may also elect to be self-managed and not appoint a management company. In this case the UCITS itself is responsible for all aspects of managing the fund and the initial capital requirement will be €300,000.

It should also be noted that a self-managed UCITS cannot manage any other fund.

Semi-annual accounts for management companies and depositaries

The CBI now requires UCITS management companies and depositaries to submit an additional set of half-yearly management accounts covering the second six months of the financial year.

The CBI is of the view that the submission of half-yearly management accounts covering both 6 month periods is an important and necessary supervisory tool as it provides the Central Bank with more complete and more timely information and will allow the CBI to compare and analyse reports from the first 6 months of the year with the second 6 months – something which is not possible under current reporting requirements.

This approach is consistent with the reporting requirements for other firms supervised by the Markets Directorate (e.g. MiFID firms).

Directors

Management companies with a **Low PRISM rating** will require at least:

- (i) 2 directors resident in the Ireland,

(ii) half of its directors resident in the EEA or such other country as the CBI may, taking into account criteria regarding effective supervision, determine, and

(iii) half of its managerial functions performed by at least 2 designated persons resident in the EEA or such other country as the CBI may, taking into account criteria regarding effective supervision, determine.

Whereas management companies with a **PRISM impact rating of Medium Low or above** shall have at least:

(i) 3 directors resident in the Ireland or, at least, 2 directors resident in Ireland and one designated person resident in Ireland,

(ii) half of its directors resident in the EEA or such other country as the CBI may, taking into account criteria regarding effective supervision, determine, and

(iii) half of its managerial functions performed by at least 2 designated persons resident in the EEA or such other country as the CBI may, taking into account criteria regarding effective supervision, determine.

Directors must not hold any common directorship with the depositary. However, the Irish Funds Industry Association's Corporate Governance Code for Collective Investment Schemes and Management Companies recommends three directors at least one of whom should be an Independent Non-Executive Director. If there is a change in directors or a director wishes to resign the CBI must be notified.

Directors are subject to the fitness and probity regime of the CBI. Management companies and self-managed UCITS are also required to appoint an independent director who will carry out an organisational effectiveness role to ensure that the management company continues to be organised and resourced in the most appropriate manner on an on-going basis.

Director Time Commitments

Further to the CBI's Fund Management Companies Guidance issued in December 2016, the CBI will treat in excess of twenty directorships combined with an aggregate level of annual professional time commitment in excess of 2,000 hours as a risk indictor. Where any risk indicator is triggered, additional supervisory attention will arise under the Central Bank's risk-based approach to supervision (PRISM).

The Central Bank has also indicated that the type and complexity of individual investment funds and sub-funds should also be considered carefully by individuals when assessing both the required time commitment and the necessary expertise needed at board level to oversee the investment fund.

Submission of UCITS Authorisation documentation to the Central Bank of Ireland (CBI)

The application to the CBI should be made online and will involve submitting several third party service agreements.

The following documentation is required to be submitted.

- the name of UCITS;
- a statement of the general nature of the investment objectives of the UCITS and evidence of incorporation;
- the prospectus;
- full information on the management company if applicable;



- the full name and address of the proposed trustee;
- information is also required on the proposed investment manager/adviser, auditor, any third party which has been contracted by the UCITS, or management company acting for the UCITS;
- additional information may also be required by the CBI in the course of determining individual applications and
- there are also additional information requirements for unit trust, common contractual funds and for investment companies.

Note, references above to "information on management company/administrator third party" etc. in effect means that the UCITS must submit the original signed agreement with these parties to the CBI.

UCITS directors are subject to the CBI's fitness and probity checks and must submit the associated individual questionnaire via the CBI's online reporting system.

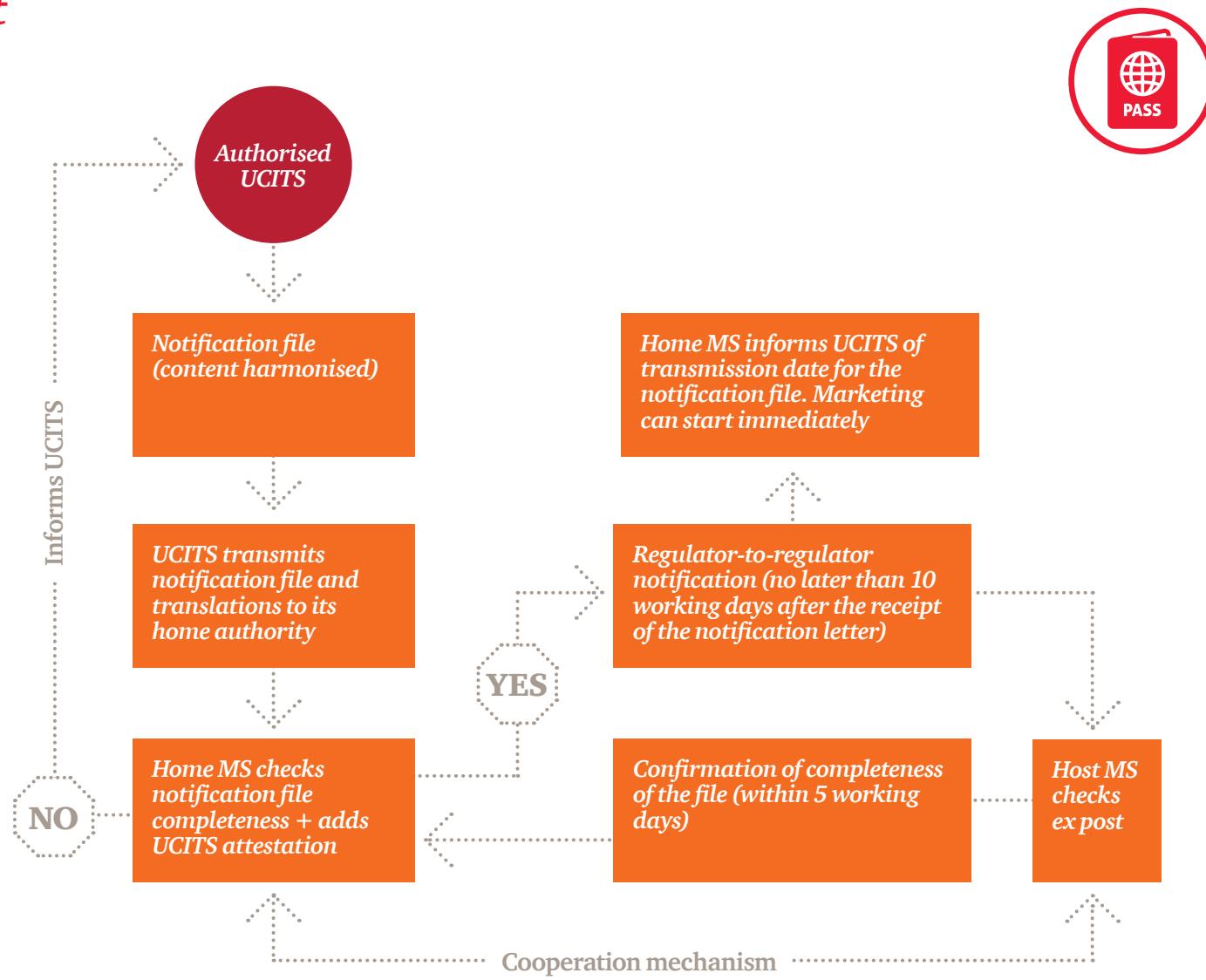
Once authorized by the CBI a scanned letter of authorisation will be issued by email.

UCITS Marketing Passport

UCITS which are authorized in any EU member state can avail of a marketing passport whereby the UCITS may be distributed in other EU states subject to a relatively simple notification procedure. This notification is submitted to the home member state regulator who will review it and forward it to the destination member state regulator.

The process of notification requires that if the fund is going to be marketed in a host EU member state for the first time (either the umbrella, a sub-fund within that umbrella not previously notified or a single fund), a notification letter, together with all required attachments, must be submitted to the home state regulator of the UCITS. (See Notification Procedure – UCITS Outward Marketing for a full list of required documentation.) Next the UCITS fund's home state regulator will review the submitted notification file and verify whether the documentation submitted by the UCITS or its delegated representative is complete before it is transmitted to the host state regulator.

The home state regulator has 10 working days from the receipt of the notification file to notify the host state regulator. Upon the transmission of the documentation, the competent authorities of the UCITS home state shall immediately notify the UCITS. The UCITS may then access the host state market in question as from the date of that notification. The host state regulator has at most 5 working days to confirm to the home state regulator that the notification file has been received and the documents are printable and readable. The notification process is outlined in the following diagram.



Notification Procedure – UCITS Outward Marketing



UCITS authorized in Ireland and wishing to distribute in another EU Member State must submit notification documentation to the CBI. The CBI will in turn forward these documents to the host regulator. These communications are all performed electronically.

The following documents must be submitted to the CBI for each outward notification:

- The trust deed, the deed of constitution or the memorandum and articles of association;
- The latest prospectus;
- The standard notification letter;
- The latest annual report and any subsequent half-yearly report; and
- The Key Investor Information Document (KIID)

These documents must also be available online. A separate filing is required for each member state where distribution is planned. The CBI will notify the UCITS when the documentation has been transmitted to the relevant member state regulator.

Setting Up an Alternative Investment Fund (AIF) Fund.

If you wish to set up a fund with a greater risk appetite, a wider range of possible investments and greater access to borrowings then the appropriate structure is the Alternative Investment Fund (AIF). The AIF benefits from many of the same regulatory benefits as a UCITS such as investor confidence, custodial safekeeping and oversight. However as AIFs tend to be aimed at professional investors, the AIF allows for a far wider range of investments, derivatives and strategies.

Supervisory Rules

The competent national authority is the Central Bank of Ireland (CBI). In order to conduct business the AIF must appoint an Alternative Investment Fund Manager (AIFM). This AIFM is subject to certain requirements and must have been pre-approved by the CBI before it is appointed by the AIF. The AIF must also inform the CBI of all other third party service providers such as the management company (if separate to the AIFM), depositary, administrator etc and these must also have been pre-approved by the CBI.

For full details of how to gain authorization for an AIFM see the section Submission of documentation to the CBI for AIFM authorisation.

Mandatory reporting to CBI – monthly and quarterly.

On a monthly basis the AIF must submit an online report to the Statistics Division of the CBI. This report must detail, amongst

other things, the fund currency, gross assets at month end, net assets at month end, number of units in circulation, NAV per unit, subscriptions, redemptions and repurchase payments during the month, profit and loss for the month, management fees and other expenses.

Within ten days of the end of each quarter, the AIF is required to submit a Money Market and Investment Fund (MMIF) return to the CBI. On an annual basis it must submit a Survey of Liabilities. These ongoing reporting requirements are usually carried out by the administrator.

Annual and mid-year reports

The AIF must submit their first set of accounts to the CBI within specific time limits of the launch date. Retail Investor Alternative Investment Funds (RIAIFs) must produce interim financial statements covering the first six months of the financial year. Qualifying Investor Alternative Investment Funds (QIAIFs) which are established as common contractual funds or as unit trusts must also produce interim financial statements.

The CBI has detailed several items of information which must be stated in the annual and mid-year financial reports. Among the items are assets and liabilities broken down by category, an analysis of the portfolio, a description of and rationale for FDIs in the portfolio. Details of any soft-commissions paid, distributions out of capital and a depositary's report are also required. Any open financial derivative positions must be marked to market.

Additionally if the AIF has engaged in the lending of any securities their value and any associated collateral held must be disclosed. If this lending took place on a recognised central depositary then the depositary must be named.

Why Ireland for alternatives?

- The world's leading centre for the administrations of hedge funds¹².
- 40% of global hedge fund assets are serviced in Ireland¹².
- AIF assets under management of €505bn in Ireland, 11.9% growth in 2016¹².
- 47 fund administrators and 18 depositaries based in Ireland to choose from¹².
- Ireland was the first country in Europe to publish its new detailed regulatory regime relating to AIFMD¹².
- Streamlined redomiciliation is available under Irish legislation¹².

¹² Central Bank of Ireland EFAMA and Irish Funds December 2016

Prospectus Document.

The AIF must comply with the terms of their prospectus. No material change can be made to the investment objectives without the consent of a majority of the unitholders at a general meeting. However if the AIF is structured as an ICAV a general meeting may not be required- see the ICAV section, page 13. The prospectus must be available free to charge to all potential investors. In the case where a material change is made to the prospectus then existing unitholders must be notified and allowed the possibility of redeeming their investment before the change becomes effective.

Any potential conflicts of interest between the fund manager, management company and any third parties must be addressed in the prospectus along with details of any soft commissions.

The prospectus must contain a general risk warning that unit prices fluctuate and can go up or down. It must list the stock exchanges, markets and regulated derivative markets on which the assets it intends to invest in are traded. Its investment policy must be disclosed in the prospects as well and any intention to target specific countries, regions or industries.

If the AIF intends to invest in financial derivatives it must disclose the types of derivatives targeted and the extent of any potential leverage. Similarly if the AIF intends to hold short positions it must detail in its prospectus the expected long and short holding of each asset class. Index tracking strategies etc. must all be disclosed in the prospectus. Dealing frequency and any limits on redemptions or liquidity must also be stated.

The AIF must disclose the name of its management company/AIFM and the names of its directors, administrative, management and supervisory staff. It must also detail their background, experience and suitability for those roles.

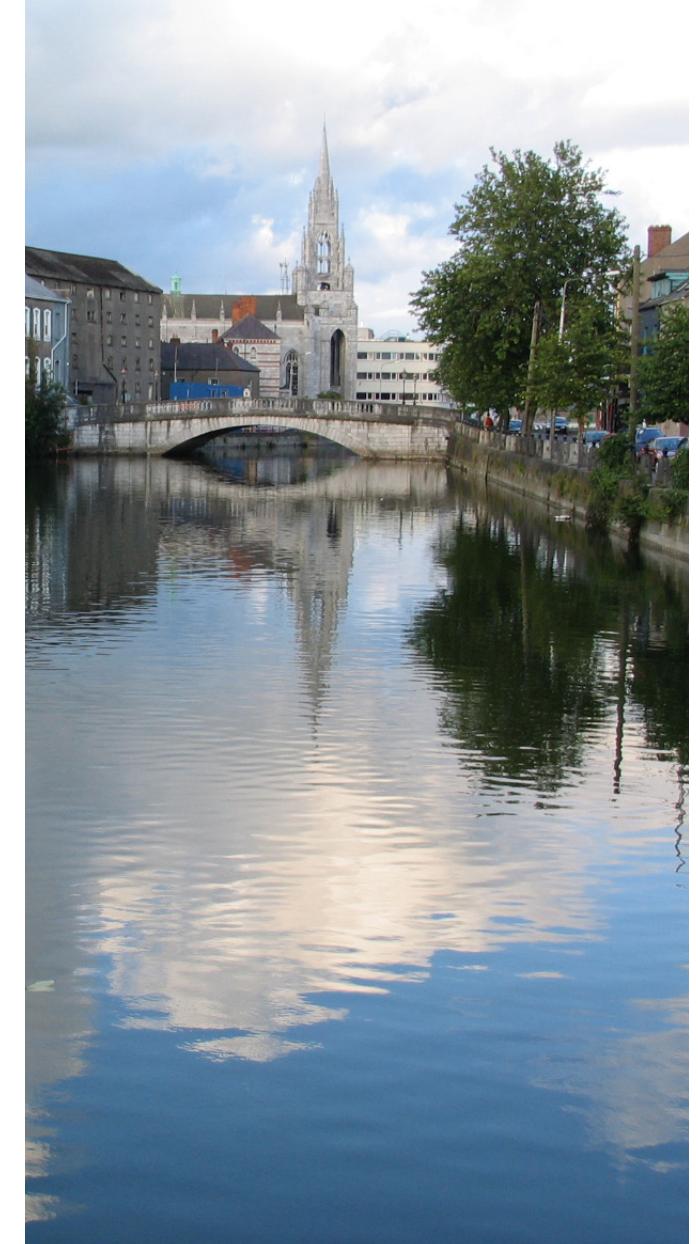
The AIF must also disclose the material provisions of contracts with the management company/AIFM and other third party service providers. If the AIFM engages in any other significant activities on behalf of the AIF this must be stated in the prospectus.

AIF Minimum Subscription

Minimum subscription rules will depend on if the AIF is aimed at retail investors (RIAIF) or qualified investors (QIAIF).

The Qualifying Investor Alternative Investment Fund (QIAIF) is open only to professional investors and is subject to a minimum initial subscription requirement equal or equivalent to €100,000 per investor. If the QIAIF invests more than 50% of its assets in unregulated funds then it is subject to a higher minimum investment of €500,000 or equivalent.

The Retail Investor Alternative Investment Fund (RIAIF) is aimed at the retail market and may have a lower minimum investment as determined by the fund manager. As it is a retail product it has some restrictions on eligible investments and leverage levels.



Qualifying investor qualification criteria

Only investors meeting the following requirements may invest in a QIAIF:

- (a) the investor must be a professional client within the meaning of Annex II of MiFID; or
- (b) receive an appraisal from an EU credit institution, a MiFID firm or a UCITS management company stating that the investor has sufficient experience, expertise and knowledge to appropriately evaluate and understand the product they are investing in or is a professional investor whether acting for its own or others account in the same type of property as the QIAIF. This appraisal must be certified in writing to the QIAIF along with an acknowledgement of the risk involved including the risk of a total loss of all sums invested.

Note that these two conditions restrict the potential investors to professional investors only.

QIAIFs are prohibited from accepting subscriptions from persons that group amounts of less than €100,000 for individual investors.

QIAIFs can be established in Ireland under various legal structures such as variable capital investment companies, limited partnerships, common contractual funds, unit trusts or as ICAVs. These are discussed in the legal structures section.

If a QIAIF has subfunds then each subfund is treated as a separate QIAIF by the CBI.

Retail investors

A Retail Investor Alternative Investment Fund (RIAIF) version of an AIF can also be setup. In essence a RIAIF is a QIAIF but with a lower minimum investment requirement and additional investment and leverage

restrictions. Rules regarding RIAIFs will vary across individual EU member states, for example they may or may not be permitted and the minimum investment will be determined by the local regulator.

Comparison of QIAIF and RIAIF Funds.

	QIAIF	RIAIF
Investor	Professional Investor	Retail Investor
Minimum Investment	€100,000	None
Can be sold cross border?	Yes, with AIFM passport	No
Leverage	Cannot exceed 200% of net assets for a Loan Origination AIFs	Cannot exceed 25% of net assets
Real Estate Investments	No restrictions	Numerous restrictions on valuation reports, price paid, occupancy
Derivative investments	Depends on fund	Numerous restrictions
Securities not traded on a regulated market	No specific limit	Max 20% of net assets
Securities of a single issuer	Maximum of 50% of net assets in any one unregulated investment fund	Max 20% of net assets, or 35% for an Index tracking RIAIF
Investments in State or Local Authority guaranteed Securities	No restrictions	Max 20% unless prior Central Bank approval is obtained
Cash	No restriction	Max 10% with one institution. Or 30% with certain guaranteed institutions
Investment in other funds	Up to 100% subject to max 50% in any one unregulated fund. If QIAIF is a money market fund then the investee funds must also be money market funds.	Max 30% in any one open ended fund, and further restrictions for short term money market funds
Derivatives - OTC counterparty risk	No restriction	Max 5% of net assets Max 10% if with a relevant institution Numerous collateral and other rules apply

AIFM Requirements

Before the AIF can be approved it must designate an Alternate Investment Fund Manager (AIFM) which must be approved by the CBI before the AIF applies for authorization. AIFMs can have a “registered” or an “authorized” status with the CBI and this status will impact in which jurisdictions the AIF can be marketed.

An authorised AIFM is subject to all provisions of AIFMD and has the benefit of having both AIFM passports which allows it to market its AIFs throughout the EU and to manage other AIFs in the EU also.

Whether an AIFM is subject to authorization or registration depends on the value and nature of the assets under management. An AIFM managing assets in excess of €100 million will be subject to the full provisions of AIFMD. If the AIFM does not use leverage or if it locks investors in for a 5 year period then a higher limit of €500 million applies. AIFMs which fall below these thresholds still have to be registered with the CBI. An AIFM which is registered, (but not authorized as it is below these limits), is exempt from some AIFMD provisions but it does not have either of the passports and therefore cannot market its AIFs outside the EU member state in which it is established nor can it manage AIFs other than its own.



AIFM - Registered or Authorised

AUM

- Regardless of AUM the AIFM is subject to some or all provisions of AIFMD
- If the funds do not use leverage or have a 5 year lockin then substitute €500m for the €100m below.

>€100m

- *Must be authorised by the national competent authority*
- *Subject to full provisions of AIFMD*
- *Qualifies for the passports - management and marketing*

<€100m

- *Must register with national competent authority*
- *Not subject to full AIFMD provisions*
- *Not eligible for passports*
- *Cannot market the AIF outside home state nor can it manage AIFs other than its own*

AIFM Authorization Process

The authorisation process for an AIFM centres on the requirement to submit a “programme of activity” (POA) to the CBI (the UCITS management company equivalent is a business plan). This is essentially a governance document or a regulatory compliance plan, setting out the AIFM organisational structure, its daily operational plan and how it intends to comply with the CBI's requirements. The POA will pertain to certain key managerial functions, including in particular investment management and risk management as well as governance and valuation procedures. The POA will also detail the AIFM policies relating to remuneration, delegation of tasks to third parties, conflicts of interest policy and anti-money laundering policy.

Capital Requirements

An AIFM must have initial capital equivalent to the larger of:

1. €125,000 plus, if applicable, an additional amount of 0.02% of the amount by which net assets exceed €250 million.
or
2. One quarter of its total expenditure in its most recent annual accounts.

The minimum capital requirement is subject to an upper limit of €10 million.

If the AIFM does not hold professional indemnity insurance, it must hold an additional amount at least equal to 0.01% of the value of AIFs under management.

Alternatively the additional amount can be reduced by 50% if a guarantee of that same 50% is available from a credit or insurance institution and the CBI has approved the form of the guarantee.

This capital requirement must be held as cash or cash equivalents.

Directors

An online questionnaire must be submitted for directors (and anyone holding 10% of the voting rights or capital). This questionnaire focuses on ensuring the proposed directors have the appropriate skills and knowledge in relation to their roles on the AIFM board. The board must have 2 Irish residents and cannot have any cross-directorship with the depositary. Any resignations from the board must be notified to the CBI and the impact on the board considered. The Irish Funds Industry Association's Corporate Governance Code for Collective Investment Schemes and Management Companies for funds recommends at least three directors at least one of whom should be an Independent Non-Executive Director.

Location rule

Management companies with a Low PRISM rating will require at least:

- (i) 2 directors resident in the Ireland,
- (ii) half of its directors resident in the EEA or such other country as the CBI may, taking into account criteria regarding effective supervision, determine, and
- (iii) half of its managerial functions performed by at least 2 designated persons resident in the EEA or such other country as the CBI may, taking into account criteria regarding effective supervision, determine.

Whereas management companies with a PRISM impact rating of Medium Low or above shall have at least:

- (i) 3 directors resident in the Ireland or, at least, 2 directors resident in Ireland and one designated person resident in Ireland,

(ii) half of its directors resident in the EEA or such other country as the CBI may, taking into account criteria regarding effective supervision, determine, and

(iii) half of its managerial functions performed by at least 2 designated persons resident in the EEA or such other country as the CBI may, taking into account criteria regarding effective supervision, determine.

Delegation Limits

AIFMs have the right to delegate activities related to fund management and portfolio decision making. The terms of the delegation must be clearly set out in contractual terms and these details must be submitted to the CBI during the AIFM authorization process. Criteria exist regarding the nature and quantity of duties delegated.

- The delegate must have sufficient experience, expertise and resources to perform the required duties.
- The delegation structure must not hinder effective supervision by the CBI.
- Services provided by the delegate must be reviewed on an ongoing basis.
- Delegation must not be on so large a scale as to render the AIFM as no longer an effective manager.
- An AIFM must not delegate a portion of investment management functions which is substantially greater than the role it retains for itself.

While both investment management and risk management may be delegated it is not permitted to delegate the entirety of both at the same time. Essentially the AIFM must retain its decision making role in these areas.

Additional CBI criteria

The CBI must also be satisfied that the corporate structure of the AIFM is not such that it could hinder effective supervision by the CBI. Details of any third parties to which functions or roles are delegated must be notified to the CBI and these third parties must already be pre-approved by the CBI.

“Self-managed” AIFs

Investment companies and ICAVs have the option to be “self-managed” and not appoint an AIFM. Like AIFMs, these self managed AIFs may be authorised or registered and in general the requirements described above in this regard are applicable to them too. The main exception is that self-managed AIFs cannot use the AIFM management passport (meaning it cannot manage other EU Member state funds or AIFs other than the self-managed AIF itself).

A self managed AIF is subject to the following minimum capital requirements:

1. Minimum capital requirement of €300,000.
2. Expenditure related requirement – not applicable.
3. Additional own funds or professional liability insurance cover.

Submission of documentation to the CBI for AIFM authorisation

The following documentation is required to be submitted to the CBI¹³.

- (a) a completed application form signed by two directors of the applicant AIFM;
- (b) completed individual questionnaires (IQ) in respect of;
 - each director and senior manager;
 - each individual who has a direct or indirect holding of shares or other interest in the proposed AIFM, which represents 10% or more of the capital or voting rights in the AIFM;
 - any other individual who is in a position to exercise a significant influence over the management of the AIFM.
- (c) a programme of activity setting out the organisational structure of the AIFM, including information on how the AIFM intends to comply

with its obligations under the provisions of the AIFMD Regulations 2013 which implement Chapters II, III, IV (and where applicable) Chapters V, VI, VII and VIII of the AIFMD;

- (d) information on the remuneration policies and practices pursuant to Regulation 14 of the AIFMD Regulations;
- (e) information on arrangements made for the delegation and sub-delegation to third parties of functions as referred to in Regulation 21 of the AIFMD Regulations;
- (f) information on the AIFs it intends to manage as specified in Regulation 8(3) of the AIFMD Regulations;
- (g) the statement of responsibility referenced in paragraph 5 of section iii (Organisational requirements) of the AIFM chapter of the AIF Rulebook, if applicable.

AIF Marketing and Management Passport

Similar in concept to UCITS, the AIFMs can also avail of a passport system. Only one passport exists for UCITS while two different passports exist for AIFMs, a marketing passport and a management passport.

A QIAIF managed by an authorized EU based AIFM can avail of the marketing passport to allow distribution to qualified investors across the EU subject to the notification procedure outlined below.

A separate management passport also exists and permits the AIFM to manage other AIFs which are domiciled elsewhere in the EU.

No Passport for RIAIFs or un-authorised AIFMs.

Please note that a RIAIF cannot avail of the marketing passport nor can an AIF managed by either a non EU AIFM or a non-authorized AIFM (i.e. a below threshold AIFM which is registered rather than authorized and therefore not subject to the full AIFMD directive.)

Un-authorised AIFMs cannot avail of the management passport either.

Notification Procedure – AIFs Outward Marketing

Once the AIFM has the “passport” it can market its AIFs in other EU member states subject to the following notification process to the CBI.

Irish AIFMs proposing to market EU AIFs to professional investors in another member state must notify the CBI for approval in accordance with Regulation 33 of the EU (AIFM) Regulations 2013. The notification letter and any required documentation should be submitted by the Irish AIFM to the CBI for each member state in respect of the AIF(s) it intends to market, together with the following:

1. Notification letter;
2. The AIF rules or Memorandum and Articles of Association for each AIF being marketed;
3. Any additional information referred to in Regulation 24(1) for each AIF that the AIFM intends to market;
4. The prospectus for the fund;
5. A country supplement if required.

These items can be submitted electronically to the CBI and the documentation required can vary depending on the member state targeted for distribution. While the completed notification is submitted to the CBI the notification form and associated requirements are obtained from the national competent authority of the member state concerned.

Depository Requirements for both UCITS and AIFs.

A depositary must be selected which has appropriate governance, controls and record keeping procedures in place. The depositary must have sufficient, appropriate and adequately trained and supervised staff. The depositary must not have any cross directorships with the UCITS/AIF management company, administrator or investment company.

Oversight Duties of the Depositary

The depositary has various oversight duties to perform such as ensuring investments made are in line with the strategy set out in the prospectus. The depositary also reviews trading activity to ensure that trades are only placed on regulated markets or as detailed in the prospectus. The depositary must report to the shareholders or unit holders on an annual basis as to whether the fund has operated in accordance with its prospectus and the applicable regulations. In addition it carries out periodic reviews of the valuation procedures.

The AIFM and UCITS V Directives also identify the specific responsibilities of the Depositary in terms of oversight duties, cash monitoring and the safe-keeping of assets.

The depositary for a UCITS fund must be:

- A national central bank;
- A credit institution; or
- A legal entity authorised by its national competent authority to carry on depositary activities under the UCITS Directive, subject to the fulfilment of certain capital, prudential and organisational requirements.

No company may act as both a management company and depositary or investment company and depositary.

The depositary for an EU AIF must be:

- An EU credit institution or
- A UCITS depositary or
- A MiFID investment entity authorised to provide custodial services and which fulfils additional capital requirements.

The depositary is required to be established in the same EU Member state as the AIF or UCITS. Additionally the depositary's appointment contract must detail its services in terms of safekeeping, oversight, segregation and information exchange. This contract, like all third party agreements, is submitted as part of the CBI authorisation process of the UCITS or AIF.

Administrator Requirements for both UCITS and AIFs

Capital requirements

A UCITS or AIF administrator shall have, at all times, own funds that are at least equal to the higher of:

1. € 125,000
- or
2. One quarter of the administrator's fixed overheads of the preceding year, with the deduction of certain items as detailed in the Investment Firm Regulations 2017 and taken from the most recent audited financial statements.

Own funds must consist of the sum of Tier 1 and Tier 2 Capital (Tier 2 Capital is limited to a maximum of one third of Tier 1 Capital).

The administrator must be able to demonstrate compliance with this requirement at all times. The CBI reserves the right to increase this amount if it deems it necessary.

The administrator must have, at all times, an amount of eligible assets at least equal to its own funds requirement. Eligible assets must satisfy the following criteria:

- Held in an easily accessible form free from any liens or charges.
- Maintained outside the UCITS/AIF administration company's group in a separate account
- Held in an account separate to the UCITS/AIF administration company's day to day account.
- CBI must be provided with recent documentary evidence of the location of the eligible assets.

A compliance officer, who is located in Ireland, must be appointed to liaise with the CBI. This officer must have the necessary skills and abilities for the role and must have access to all necessary systems and records. This officer must also report to the board of the administrator at least quarterly.

The administrator must develop a risk analysis and capital adequacy assessment process, including having written policies and procedures in place to identify, assess and manage risk. They are also required to have written own funds and wind down plans in place.

Administrator Delegation Limits

Capital requirements

In the case of an administrator there are additional strict limits regarding the delegation of duties.

While the administrator may delegate some functions there are rules prohibiting the delegation of the following tasks:

- i) the final checking and release of net asset value;
- ii) the maintenance of the shareholder register
- iii) administrators must put in place a policy that covers all aspects of outsourcing;
- iv) the outsourced service provider must have the skills, abilities, resources and regulatory approvals to perform the outsourced functions reliably and professionally;
- v) the outsourcing relationships must be fully documented by a formal contract or service level agreement between the parties which must contain certain mandatory provisions
- vi) a requirement to submit an annual return to the CBI outlining the administrator's outsourced activities.

Redomiciliation of funds to Ireland

Increasing numbers of investors both in Europe and further afield are seeking a regulated environment for their funds. This requirement is being driven by a desire by both fund managers and investors to obtain greater statutory protection of their interests.

Redomiciling provides an opportunity for a non-Irish fund, in specific jurisdictions, to move to an EU regulated jurisdiction and enjoy the associated regulatory benefits. It can also unlock new markets for the funds concerned.

Redomiciling conveys the following benefits amongst others:

- Overcomes the pressure on European institutional investors to avoid off-shore hedge funds;
- Provides access to European markets via UCITS and AIFMD passporting;
- Avoids the necessity to go down the private placement route in many circumstances; and
- Provides investors and managers with greater legal rights and protections.

Current redomiciliation legislation provides for an effective and straightforward migration of corporate funds to Ireland by allowing a non-Irish corporate fund to re-register as an Irish company authorised by the CBI. A fund may also redomicile by way of continuance as an ICAV which has the benefit of qualifying as a “check the box” transparent entity for US tax purposes.

As a new legal entity is not required, this means the redomiciling funds retain their original corporate existence and a number of associated benefits listed here:

- The ability to retain the fund's performance track record post migration;
- The avoidance of potential adverse tax consequences for investors that might otherwise arise under a merger of an offshore fund with a new onshore fund;
- The avoidance of a charge to transfer taxes that might otherwise arise from the transfer of assets under a fund merger;
- Prevention of the administrative burden of moving assets to a new fund; and
- Upon authorisation, qualification for the tax exemptions available for Irish regulated investment funds.

Offshore funds may only re-domicile to Ireland if the legislation of their original territory allows outward and inward re-domiciliation. The current list of such jurisdictions is as follows: Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey, Jersey and The Isle of Man.



Legal Structures - for Irish Funds

Fund Structures

Numerous legal structures are available for both UCITS and AIF funds. The choice of legal structure will depend on the fund preferences, market requirements and operational considerations. The legal structures available include Unit Trust, Investment Company, Investment Limited Partnership, Common Contractual Fund and the Irish Collective Asset Management Vehicle (ICAV). These existing legal structures are established under Irish Company Law and as such are subject to its provisions. The ICAV on the other hand is specifically designed for collective investment schemes. The ICAV streamlines the applicable provisions, allows the AGM to be dispensed with and disapplies several company law requirements which are not suited to collective investment schemes.

Unit Trust

Unit Trusts are established under the 1990 Unit trust Act. They are a contractual fund structure between the management company and the trustee. As a Unit Trust is not a separate legal entity the Trustee acts as the owner of the assets on the investors behalf. A management company is required and management responsibility lies with the board of the management company. AGM's are not required for a Unit Trust and non-prejudicial changes to the trust deed can be made without seeking unit holder approval.



Investment Limited Partnership (ILP)

(only available to AIFs)

ILPs must consist of a minimum of one Irish general partner and minimum one limited partner. ILPs do not have a separate legal personality and therefore the ownership of the assets rests with the individual partners in accordance with the partnership agreement. Recent amendments to ILPs mean that they are now treated as tax transparent. Tax is no longer charged to the partnership but to each individual partner in proportion to the performance of their holdings.

Common Contractual Fund

CCFs are a useful structure for non-taxable investors who wish to pool their investments in a tax efficient manner. The investors participate as co-owners of the assets under a contractual deed. The CCF is tax transparent so tax is borne by the ultimate investor who also benefits from double taxation treaties. CCF's are only available to institutional investors.

Investment Company

Investment companies are established under Part 24 of the Companies Act 2014 and as such are subject to the provisions of company law except for some specifically disappplied sections. Investment Companies have a separate legal identity, a board of directors and must hold AGM's etc. Part 24 requires them to spread investment risks and prohibits investing all their funds in a single asset.

Irish Collective Asset Management Vehicle

The ICAV has resulted from Irish legislation introduced in 2015 tailored to meet the needs of investment funds. It is specifically designed for collective investment schemes and removes many of the provisions that are more suited to a trading company. The ICAV may choose not to hold an AGM and can make non prejudicial changes to its constitution without shareholder approval. The ICAV also streamlines the redomiciling process for funds wishing to re-locate to Ireland. ICAVs are also eligible for US "check the box" tax rules.



Legal Structure - for a Management Company

In accordance with the Companies Acts 2014, management companies can be established as either a Private Company Limited by shares ("LTD.") or a Designated Activity Company ("DAC").

A LTD. Company has full and unlimited capacity to carry on and understand any business or activity, to do any Act or enter into any transaction. As a result a LTD. Company has no objects clause in its constitutional document.

A DAC will have a constitution comprising of a Memorandum and Articles of Association. The Memorandum will contain an objects clause. Unlike an

existing private company limited by shares where written resolutions could only be passed by all members, the DAC allows for these resolutions to be passed by a majority.

The duties and responsibilities of a director are codified in the Companies Act 2014. These responsibilities are set out in eight fiduciary duties which apply to directors, shadow directors and de facto directors as follows:

- act in good faith
- act honestly and responsibly
- act in accordance with the company's constitution and to exercise those powers only for lawful purposes

- not to use company property unless approved by the members or the company constitution
- not to fetter discretion unless permitted by the constitution or unless it's in the company's interest
- to avoid conflicts of interest
- to exercise care, skill and diligence and
- to have regard for the interests of members as well as employees

Types of entity under the Companies Act 2014

Private Company Limited by Shares LTD	Designated Activity Company DAC
Min 1 director.	Min 2 directors.
Single document Constitution. "Ultra Vires" no longer applies as the objects clause is removed.	Constitution comprising AoA and Memorandum, objects are stated in Memorandum.
From 1 to 149 members.	From 1 to 149 members.
May dispense with AGM.	Must have AGM if multimember DAC
May pass written resolutions by majority.	May pass written resolutions by majority.

Directors Duties Codified



Taxation of Irish Funds

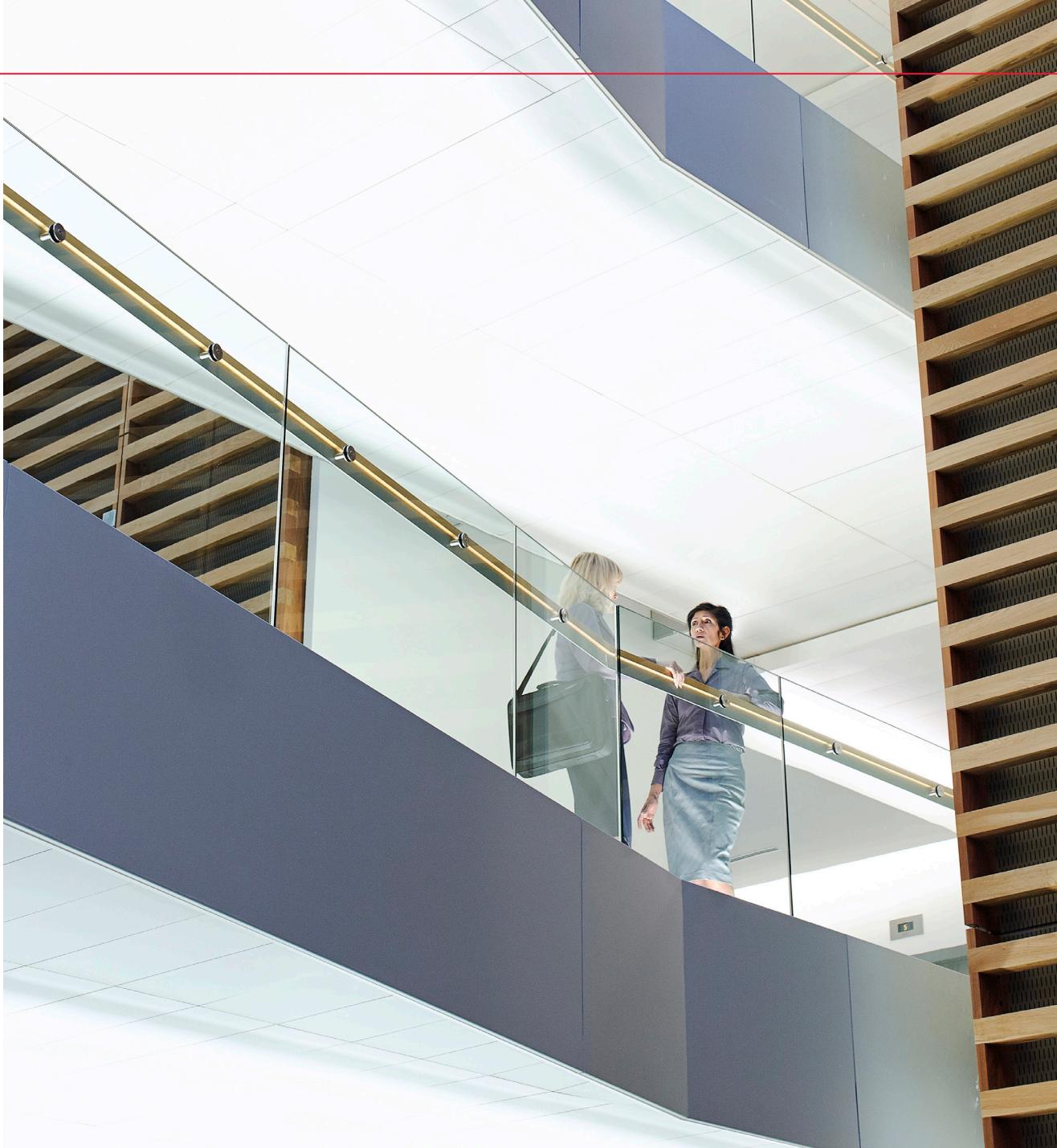
The stable Irish tax regime remains a cornerstone of Irish economic policy. The Irish tax system is highly efficient and transparent and as evidenced by recent reports is one of the least onerous in terms of time to comply and total tax take in the EU¹⁴.

Ireland is committed to tax transparency and international co-operation. Ireland has signed tax treaties with over 70 countries and is continuing to build this network. Ireland is a signatory to the FATCA Inter Governmental Agreement model 1 and was in fact the first country to sign the agreement.

In relation to funds Ireland adopts a tax neutral regime, this has been the case since the establishment of the IFSC in 1987 and it remains a key driver of the Irish funds industry.

Irish Regulated funds are exempt from tax on investment income and gains derived from investments, also there is no net asset value tax. Investors who are non-Irish resident do not suffer any net asset, transfer or capital taxes on the issue, transfer or redemption of their investment units, nor are they subject to any withholding taxes. This makes Ireland an extremely competitive location in which to domicile your fund both from the fund and the investor point of view.

¹⁴ Source: PwC Paying Taxes 2017.



PwC – we're in your corner

With almost 400 dedicated Asset Management professionals PwC Ireland are ready to help you. We have the knowledge and experience to assist you with your audit, tax and advisory needs across all the main types of funds including hedge funds, private equity, UCITS, ETFs, money market funds, real estate/property funds, Islamic funds and more. Using our specialist asset management group, the largest in Ireland, and our extensive global network we can tailor our approach to suit your particular fund type and provide market insights and experience that are second to none.

How PwC can help



Setting up a fund/management company

We can help with all aspects of setting up a fund or management company in Ireland. This includes developing your market entry strategy, provision of regulatory, accounting, tax and operational advice on initial fund/management company setup and project managing the setup process from start to finish.

We have over 18,000 asset management professionals working across 157 countries



Fund audit

Trust is an important factor in gaining and sustaining the confidence of your investors. Using our experience and proven track record we can provide the stamp of approval needed to give comfort to you and your investors.



Fund tax

We have a dedicated group of tax professionals, focused on international and local tax issues facing fund managers. We have a wealth of resources and expertise to assist you in addressing the various tax challenges such as:

- Investor tax reporting
- Withholding taxes review
- Financial transactions taxes
- Transfer pricing
- FATCA
- International tax consulting services
- EU withholding tax reclaims
- Global tax compliance services
- VAT services



Fund Registration and Distribution Services

PwC's Distribution Services team can perform initial registrations with local regulators on behalf of clients. In addition we can inform clients of the ongoing registration requirements and assist with relevant filings to ensure continued registration compliance.



Regulatory assistance

Keeping up to date with the regulatory environment is essential. We can provide you with clear guidance on what you need to do to be compliant and help you to identify the impact of these regulations on your business, your processes and your people.



Asset management consulting

The asset management sector is constantly changing. If your focus is on growing revenue, integrating successfully, creating insight, removing complexity, operating globally, improving efficiency or reducing cost - we can help.



A “one-stop shop” integrated solution to European tax reporting

PwC, as the leading tax advisor and auditor in the global asset management industry, recognised that outstanding multi-market tax reporting solutions are necessary in order to cope with these challenges. Because our clients distribute their funds in an ever-increasing number of countries, we offer a multi-jurisdictional tax reporting service. We are in the position to review and/or calculate the annual tax figures in accordance with the local laws of many jurisdictions. Additionally we act as an outsourced service provider for a number of high profile clients in relation to producing calculations under the UK tax reporting regime.



State-of the art technology solutions including FRC and “Client Connect”

PwC can provide a single point of contact and a global, integrated team featuring professionals with deep experience in the relevant countries, to tackle multi-country investor reporting. Using state of the art technology we can manage the flow of information from the administrator to each of the PwC service teams

who will prepare the relevant tax reporting calculations in line with local country legislative requirements. We have also developed our own proprietary systems which can “plug-in” to the administrator accounting function in order to work with the raw financial data provided by them to produce investor tax reporting.

We can also offer a cloud based technology solution for the provision of Global Fund Distribution Registration Services. A dashboard called “ClientConnect” may be used to manage deadlines and the flow of information for both Registration and Regulatory Services.



Sales Team Support

The ability of a sales team to clearly articulate what the return on an investment product means from the perspective of the taxation of end-investors is increasingly important as the tax efficiency of the return is paramount for investors. As we continue to see a people/resource intensive landscape emerge from a distribution perspective, there is a clear need for fund promoters to appropriately equip sales teams with the knowledge and expertise to articulate the nuances of the investment products from a tax perspective. We can provide the support that enables those teams to understand and explain to investors the tax implications of the return from the investment product.

How we can help

Our services are broadly in 3 areas as follows



Glossary

AIF	Alternative Investment Fund	IF	Irish Funds
AIFM	Alternative Investment Fund Manager	ILP	Investment Limited Partnership
AIFMD	Alternative Investment Fund Manager Directive	IOI	Instrument of Incorporation
CBI	Central Bank of Ireland	KIID	Key Investor Information Document
CCF	Common Contractual Fund	MiFID	Markets in Financial Instruments Directive
CIS	Collective Investment Scheme	MMIF	Money Market and Investment Fund
DAC	Designated Activity company	POA	Programme of Activity
EEA	European Economic Area	QIAIF	Qualified Investor Alternative Investment Fund
ETF	Exchange Traded Fund	RIAIF	Retail Investor Alternative Investment Fund
EU	European Union	SRRI	Synthetic risk and reward indicator
FATCA	Foreign Account Tax Compliance Act (USA)	TER	Total expense ratio
FDI	Financial Derivative Instruments	UCITS	Undertaking for Collective Investment in Transferable Securities
ICAV	Irish Collective Asset Management Vehicle		

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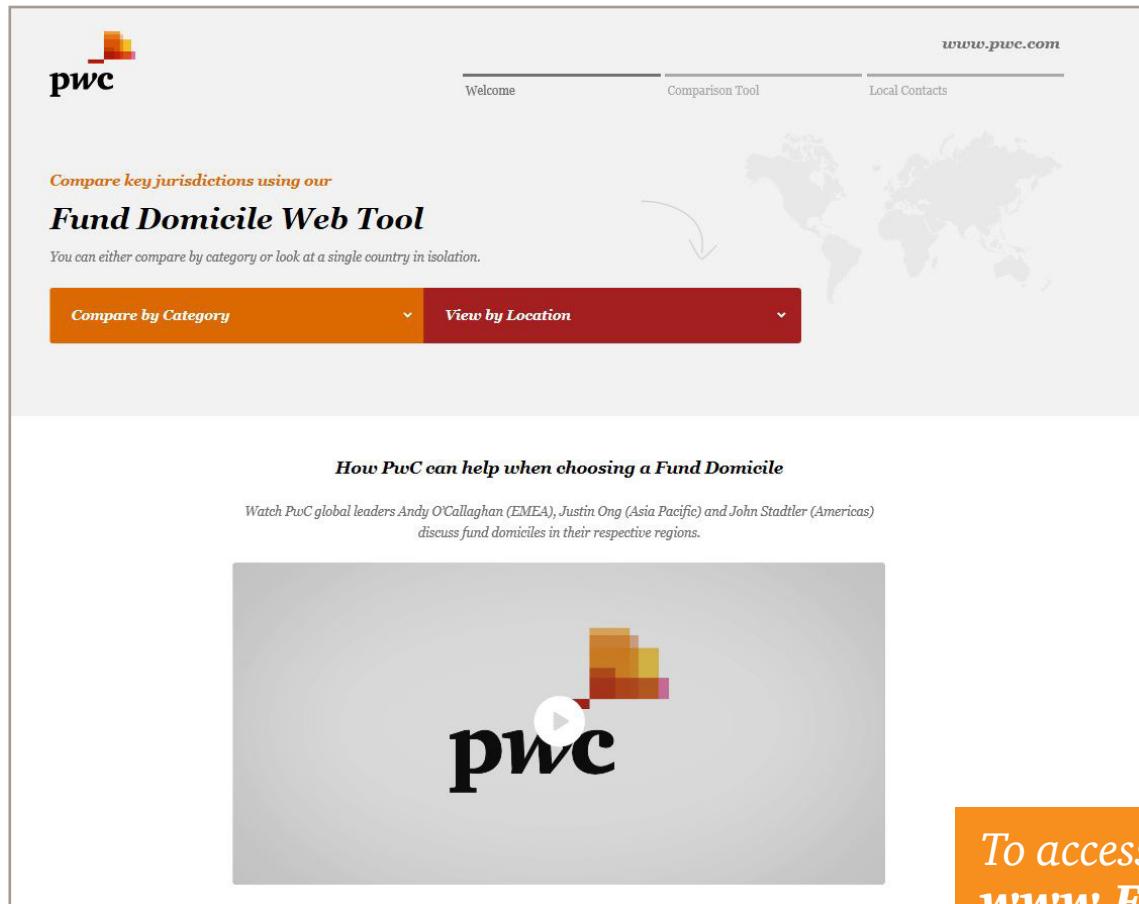
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Use our Fund Domicile Comparison web tool

This tool compares 18 global fund jurisdictions answering over 30 questions in key areas such as regulation, tax, set up fees, service providers and key statistics.



The screenshot shows the PwC Fund Domicile Comparison web tool. At the top, there's a navigation bar with the PwC logo, a search bar, and links for 'Welcome', 'Comparison Tool', and 'Local Contacts'. Below the navigation, the URL 'www.pwc.com' is visible. A main heading reads 'Compare key jurisdictions using our Fund Domicile Web Tool'. It includes a sub-instruction 'You can either compare by category or look at a single country in isolation.' Below this are two dropdown menus: 'Compare by Category' (orange) and 'View by Location' (dark red). To the right of these menus is a world map. Further down, a section titled 'How PwC can help when choosing a Fund Domicile' features a video thumbnail showing three PwC global leaders discussing fund domiciles. A call-to-action button at the bottom right encourages users to access the tool at www.Fundjurisdictions.com.

