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Ireland

Regulation

FUNDS AND FUND MANAGEMENT 2009

2.0 Fund Structure

Introduction

There is a wide variety of fund structures available to promoters in Ireland. The most appropriate structure in a particular case will be governed by factors, such as:

- the target investors (retail or institutional);
- the location of the investors (pan-European or single country); and
- investment and borrowing policy.

Many funds established in Ireland are UCITS funds, that is, they are established under a common European Union (EU) framework and benefit from an EU passport. Once authorized in Ireland, an UCITS fund may be sold to the public in other EU states without requiring further authorization in those states. There is a high degree of investor protection associated with UCITS funds and they are also recognized by many non-EU regulators for distribution in their countries. UCITS funds are sold also to institutional investors both within and outside the EU.

For some fund promoters, due to certain investment and borrowing restrictions imposed on UCITS funds, it may not be necessary or desirable to establish a fund as an UCITS. The Irish regulatory framework therefore provides for non-UCITS funds to be established. These funds are typically aimed at more sophisticated investors and enjoy a greater degree of investment freedom than the more retail orientated UCITS funds. Although a non-UCITS fund does not have access to an EU passport, it is possible to achieve a certain amount of cross-border distribution.

UCITS funds

The concept of an UCITS or pan-European fund was introduced by an EU Directive in 1985 and was implemented into Irish law in 1989. Within a few short years, Ireland had established itself as a key pan-European domicile for

fund products promoted by most of the world's largest investment management groups.

Investment universe

An UCITS is technically defined as an Undertaking for the Collective Investment in Transferable Securities. Its permitted range of investments has been expanded in recent years to include the following:

- transferable securities
- money market instruments
- units of an UCITS and, subject to restrictions, units of non-UCITS
- deposits with credit institutions
- financial derivative instruments

Investment restrictions

As investor protection is a key feature underlying the UCITS Directive, there are certain restrictions on the investment policy of an UCITS fund. These can be summarized as follows:

- risk spreading rules must be observed whereby no more than 10 percent of net assets may be invested in transferable securities or money market instruments issued by the same body. Furthermore, an overall limit of 40 percent applies where the individual exposure to the issuer of such instruments exceeds 5 percent. The risk spreading rules are modified in the case of index-tracking UCITS funds, fund-of-funds and are relaxed to reflect the lower risk of holding deposits with credit institutions and investing in securities issued by certain credit institutions and certain states.
- borrowing of up to 10 percent is permitted for temporary purposes.
- there is a limit of 10 percent on investment in unlisted securities.
- there are general prohibitions on uncovered sales of instruments and on the acquisition of precious metals, real property or securities where the UCITS would have a significant influence on the issuer.
- an UCITS must be open-ended.

Target investors

While these EU originated restrictions have been designed to protect retail investors, they have not typically reduced the attractiveness of the UCITS product to institutional investors. From a fund promoter's perspective, the ability to establish a single pan-European UCITS fund with multiple share classes for the retail and institutional markets in various EU jurisdictions is attractive from an operational and commercial perspective. The recent broadening of the investment policies of UCITS funds to include money market securities, financial derivative instruments, and to permit fund-of-funds and index trackers makes the UCITS product increasingly attractive to investment management groups.

Cross-border distribution of UCITS

In theory, the EU passport attaching to UCITS funds should facilitate speedy registration of funds in the various EU countries. Once authorized as an UCITS in Ireland, a fund promoter need only formally notify the regulatory authority in the chosen EU country of distribution and agree to comply with local marketing and advertising requirements. The foreign authority must then recognize the Irish UCITS as valid for sale to the public within two months.

In practice, the foreign registration does not always proceed quickly. This can vary from country to country but causes of delay include time spent on translations and on different internal approval procedures and practices within each EU regulator. Significant efforts are underway at an EU level to make the pan-European registration of funds less costly and more efficient. The most important of these efforts is by the Committee of European Securities Regulators (CESR) which has issued guidelines to provide a simple notification procedure. While the guidelines are not legally binding, in practice all EU regulators have agreed to commit to the process. The Irish regulator has already given effect to the guidelines. Further developments in this area are expected when UCITS IV measures are implemented in 2011.

Irish authorized UCITS funds are distributed internationally. With the growth in Asian markets, in 2008 Ireland was added to the list of entities included in the Chinese Qualified Domestic Institutional Investor Scheme which allows local Chinese institutions invest abroad.

Non-UCITS funds

While an UCITS fund is sold to pan-European retail and professional investors, a non-UCITS fund is typically sold to more sophisticated investors. The main advantage of non-UCITS funds is that they can use leverage and also enjoy a much greater degree of investment freedom. As a result, specialized funds such as property funds, commodity funds and hedge funds are established as non-UCITS.1.3.1 Sophistication of target investors.

An Irish non-UCITS fund is generally established either as a professional investor fund (PIF) or as a qualifying investor fund (QIF). The main differences in terms of target investors are as follows:

	PIF (EUR)	QIF (EUR)
Minimum subscription	125,000	250,000
Eligible investor base		
Individual	no rule applies	net worth of EUR 1,250,000
Institution	no rule applies	discretionary assets of EUR 25 million

In general, the more sophisticated or wealthy the target investor, the more liberal the investment policy regime that will apply. Consequently, a non-UCITS fund established as an QIF enjoys the greatest degree of investment flexibility. On the other hand, a non-UCITS established with a minimum subscription amount that is lower than EUR 125,000 is still generally subject to the risk spreading rules of an UCITS fund.

Relaxing of investment restrictions for PIFs and QIFs

A PIF is permitted to derogate from the UCITS investment restrictions and risk spreading rules on a case-by-case basis. In general, the Irish financial regulator will give a PIF twice the latitude granted to an UCITS. Furthermore, a PIF is generally permitted to borrow up to 100 percent of its net assets.

An QIF is granted an automatic derogation from most investment and borrowing restrictions imposed on other fund types. Irish domiciled hedge funds are therefore typically established as QIFs.

Cross-border distribution of non-UCITS

As a non-UCITS fund does not enjoy an EU passport, it must apply for individual regulatory approval in each country in which it wishes to be distributed to the public. However, as non-UCITS funds are sold only to more sophisticated investors, it is possible to offer shares/units in a non-UCITS fund by means of a private placement in the foreign jurisdiction. The local marketing and distribution laws and regulations in that jurisdiction would need to be observed.

Specialized funds

Money market funds

Ireland has established a strong reputation as a European centre for UCITS money market funds. These funds are typically consistent net asset value funds whose main objective is to preserve principal and maintain liquidity.

There are specific requirements to be fulfilled regarding the valuation methodologies to be employed for UCITS money market funds.

Non-UCITS money market funds must invest at least 80 percent of their assets in short term securities or deposits and not more than 5 percent of the net assets of the fund may be invested in debt securities of companies with a credit rating of less than A1/P1. (This restriction does not apply to debt securities issued by banks.) Also, the prospectus must state that the principle sum is liable to fluctuation and to the difference between a deposit and an investment in a money market scheme.

Property funds

As the name suggests, this type of fund invests in property and recently has become increasingly popular. The fund can make this investment either directly by holding property or through investing in companies which in turn hold property.

Some of the key issues for the Irish financial regulator are that the fund or its management company must be able to demonstrate expertise in property management. Also, the valuation of the property portfolio must take place at least twice a year and be carried out by a qualified independent valuer. The appointment of such a valuer is subject to the approval of the Irish financial regulator. Industry negotiations are currently under way with the Irish financial regulator to amend the property funds framework to make them more attractive to investors.

Leveraged futures and options funds

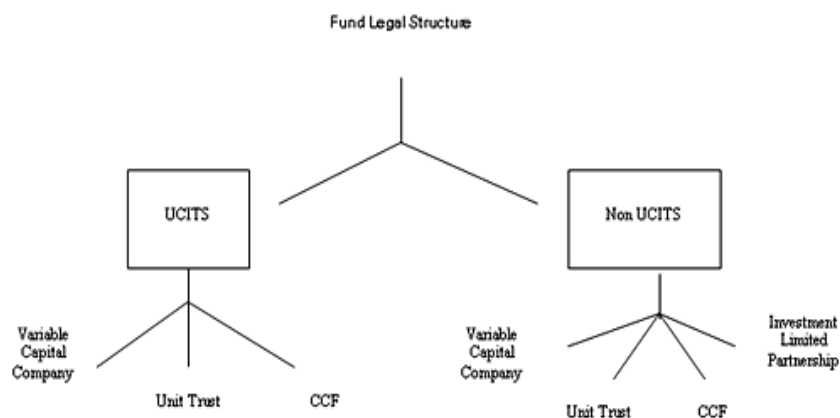
Futures and options funds can provide attractive investment opportunities. However, these funds are subject to additional Irish regulatory requirements. So, for example, the futures and options must be traded on an organized exchange and comply with additional safeguards such as exposure to a counterparty must not exceed 10 percent of net assets and the counterparty must have a minimum credit rating of A2/P2. Also, the prospectus must contain a prominent risk warning that above average risk is involved, that this type of investment is only suitable for persons who are in a position to take such a risk and a recommendation that not more than 5 percent of an investor's portfolio be invested in the scheme.

Capital protected futures and options funds

If a futures and options fund wishes to provide capital protection then it will be required to comply with additional rules. Therefore, the period over which the capital is protected may not exceed seven years, not more than 5 percent of the net asset value may be invested in debt securities of companies (other than banks) with a credit rating of less than A1/P1 and it may not hold an open

position in any one contract for which the margin or premium requirement is 5 percent or more of net assets.

Legal features of UCITS and non-UCITS



The Irish legal framework offers a range of vehicle types for funds – variable capital companies, unit trusts, common contractual funds, and investment limited partnerships. All of these vehicle types may be structured as umbrellas with (bankruptcy remote) sub-funds. Furthermore, all offer the possibility of having varying share/unit classes.

The variable capital company and unit trust structures are the most commonly used vehicles. The common contractual fund is a newly introduced vehicle type which is particularly suitable for the pooling of pension fund assets. These three vehicles can be used for UCITS and non-UCITS products. The investment limited partnership can only be used for non-UCITS funds. Based on limited partnership structures in Delaware and Bermuda, the Irish equivalent has not proved to be a popular structure and is not considered further in this document.

Variable capital company

A variable capital company (VCC) operates like any other Irish company but is required under company law to operate with the aim of risk spreading. It operates through a board of directors and may, if it chooses, also appoint a management company. An VCC will typically delegate functions such as investment management, distribution, and fund administration/accounting to members of the fund promoter’s group and/or third-party service providers. The VCC will also appoint an independent custodian for the fund’s assets. Under UCITS rules, there are specific corporate governance requirements to be fulfilled to ensure that an VCC does not become a letter box entity. As a company, an VCC must hold an annual general meeting of its registered shareholders/investors.

Unit trust

A unit trust is formed under a trust deed entered into by a management company (typically an Irish regulated subsidiary of the fund promoter) and an independent trustee (typically a custodian bank). A unit trust has no legal personality of its own – it relies on the management company and trustee to enter into contracts on its behalf. Unlike an VCC, a unit trust is not subject to company legislation concerning shareholder meetings or board meetings. However, the unit trust's management company must, like an VCC, be governed in such a way that it is not a letter box entity under the UCITS rules.

Common contractual fund

A common contractual fund (CCF) is established under the law of contract as a contractual co-ownership arrangement. It was specifically designed by the Irish authorities to be a transparent vehicle for tax and legal purposes and is therefore suitable for the pooling of pension scheme assets. A CCF is formed by a Deed of Constitution entered into by a management company (typically an Irish regulated subsidiary of the fund promoter). The management company then typically appoints the investment manager, distributor and custodian and ensures that the VCC is governed in such a way that it is not a letter box entity under the UCITS rules.

Single fund or umbrella fund

An Irish fund can be set up as either a single stand alone fund or as an umbrella fund. An umbrella fund is set up by obtaining the Irish financial regulator's approval to set up one fund but with the possibility of setting up a number of sub-funds governed by the same legal structure. Each sub-fund can invest in different types of assets and have different investors. It is also possible to set up an umbrella fund where each sub-fund is bankruptcy remote from the other sub-funds.

Open-ended or closed-ended

An open-ended fund is one which will redeem or repurchase its units at the request of its unitholders. A closed-ended fund has a specified life during which the unitholders cannot require the fund to redeem its units. An UCITS must be open-ended while a non-UCITS can be either open or closed-ended.

2.1 Current trends

Introduction

With the increasing sophistication of investment management techniques, fund promoters require their chosen domiciles to offer a range of legal, regulatory

and tax solutions in order for the needs of their clients to be met. Ireland has been to the fore in addressing these requirements. This chapter illustrates the flexibility of Ireland, both as a fund domicile and as a fund-servicing center.

Hedge funds

A hedge fund can be distinguished from the more traditional fund types by exhibiting some or all of the following characteristics:

- It utilizes leverage and appoints a prime broker from whom it borrows and to whom it provides fund assets as security.
- It engages in short-selling so that it can take advantage of arbitrage and other investment opportunities and so provide positive returns even in falling markets.
- Apart from the additional risks associated with these strategies, hedge funds can have an extremely high volume of daily transactions.
- Hedge funds typically pay a performance fee to the investment manager.

Not only do hedge funds therefore require special regulatory treatment, they also demand a high standard of administration which is readily available in Ireland.

Irish domiciled hedge funds

The Irish financial regulator facilitated the establishment of Irish domiciled hedge funds in 2000 when it introduced new rules which effectively permitted prime brokers to be appointed to Irish funds. As a result, prime brokers could lend to Irish hedge funds and take fund assets as security, even though those assets would leave the custodian's safekeeping network.

The conditions applying to the appointment of prime brokers have since been refined and can be summarized as follows:

- The value of assets of a hedge fund structured as a PIF must not exceed 140 percent of the fund's indebtedness to the prime broker unless the prime broker is appointed as a sub-custodian.
- There is no such limit if the hedge fund is structured as an QIF.
- Protection mechanisms must be provided for, such as daily marking to market of positions and the existence of a legally enforceable right of set-off for the hedge fund.

Typically, a hedge fund is established as a PIF or an QIF and sold to more sophisticated investors.

Irish domiciled fund of hedge funds

Ireland has offered the possibility of fund-of-hedge funds since 2002. Depending on the target investors such funds can be structured as QIFs, PIFs, or as retail non-UCITS funds with no minimum subscription. As is the case with traditional funds, an QIF fund of hedge funds is subject to the least amount of investment restrictions.

Derivatives

While hedge funds may not currently be authorized as UCITS, recent changes in the UCITS Directives permit UCITS funds to invest in financial derivative instruments (FDI). This more flexible approach permits traditional fund products to utilize FDI for investment purposes and not just for hedging or for the purposes of efficient portfolio management. It can be expected that more fund promoters will make greater use of derivative techniques to enhance fund returns.

The main conditions imposed by the Irish financial regulator on the use of FDI can be summarized as follows:

- The relevant reference item or indices associated with the FDI must be consistent with assets eligible for investment by the UCITS and should not cause the UCITS to diverge from its investment objectives.
- The FDI should not expose the UCITS to risks which it could not otherwise assume.
- An UCITS must not be leveraged in excess of 100 percent of net asset value.
- A risk management process must be employed to monitor, measure, and manage the risks attached to FDI positions.
- Reporting requirements to the Irish financial regulator and to investors in the fund's annual report must be met.

Pension pooling

A core component in the business strategy of many investment managers is to gather and manage assets of pension funds. Multinational corporations themselves with a multitude of individual country pension plans are also seeking to pool assets in these plans in order to reduce costs, enhance returns, and improve the risk management environment.

Although the benefits of pension pooling are well documented, there is a potentially serious drawback when equity investments of pension schemes are pooled in a fund vehicle. This relates to the risk that the fund vehicle could

suffer higher withholding tax rates than the underlying pension schemes themselves, which in many cases are tax-exempt entities. For example, depending on the domicile of a pension scheme, a loss of 0.6 percent per annum in performance could be incurred by pooling pension scheme assets in a fund investing in US equities (this is known as tax drag). In such cases, a direct investment by the pension scheme in U.S. equities would be advisable.

In view of the withholding tax limitations of certain fund vehicles in addressing the needs of pension schemes, the Irish authorities created a dedicated fund structure – the common contractual fund (CCF). This vehicle was specifically designed in 2003 as a legal and tax transparent fund. The tax transparency of a CCF should ensure that the withholding tax rate applied is based on the tax status of the underlying investor/pension scheme. This should eliminate the tax drag referred to above. In other words, the CCF offers the advantages of pension pooling while not imposing unfavorable withholding tax rates.

There has been a growing level of interest in the CCF with both multinational pension schemes and investment management groups seeking authorization from the Irish financial regulator. Although there are underlying tax and administrative complexities with the CCF, it is widely recognized as a key product to be considered when finding a solution for pension pooling.

Fast track approval process for QIFs

The Irish financial regulator has introduced a fast track authorization process for qualifying investor funds (QIFs). In order to avail of this, the service providers (including the promoter, management company, custodian, and directors of the QIF) must be already approved by the Irish regulator and confirmation must be provided regarding compliance with the authorization criteria. An application filed no later than 3:00 p.m. on a given day will be approved by the financial regulator by 9:00 a.m. the following day.

Market events since September 2008

Following the crisis in financial markets during 2008, the Irish financial regulator modified certain fund regulations in meeting liquidity challenges experienced by certain investment fund products such as money market fund and fund of funds. These changes included the ability to issue side pockets and in the case of money market funds the relaxation of certain valuation requirements during periods of exceptional market volatility.

2.3 Establishing a fund in Ireland and appointing service providers

Introduction

Establishing a new fund, either an UCITS or non-UCITS, in Ireland is a straightforward process. The length of time for regulatory approval is normally quite short as the key issue is whether the parties servicing the fund have already been approved by the Irish financial regulator.

There are a number of options available to the fund in terms of its service providers and substance in Ireland. These options range from a self managed fund which only appoints a promoter and a custodian to a fund which has a promoter, custodian, management company, and fund administrator. A brief description of the roles of the service providers are set out below together with an indication of the main issues that the Irish financial regulator examines in approving these entities.

Fund authorization process

The application process consists of the submission of the following in draft format:

- prospectus
- trust deed or memorandum and articles of association
- application form
- key contracts (such as the custody and distribution agreements) and details of proposed distribution.

The Irish financial regulator will review these documents to ensure that they comply with the appropriate regulatory rules and give comments. Once these comments have been agreed and made, the documentation is finalized and the fund will be authorized.

Promoter

Although there is no legal or regulatory definition of a promoter, essentially a promoter is the entity which sponsors a fund's application. The Irish financial regulator regards the role of the promoter as a crucial and therefore will seek to establish that the promoter has the appropriate experience and expertise.

The application process consists of the submission of a completed application form together with back up documentation including audited accounts. The application material concentrates on establishing the experience and expertise of the management of the promoter, its financial worth, and its regulatory

status. The application process takes approximately four to six weeks but this can proceed in parallel with the fund's application so that no time is lost.

Once a promoter is approved for one Irish fund, it is free to establish any number of future Irish funds. On an ongoing basis, the promoter has a capital requirement to have net positive shareholders' funds of EUR 635,000. The regulatory regime for promoters largely consists of the submission of half yearly accounts and annual audited accounts.

Management company

Who needs a management company

A unit trust and a common contractual fund must always appoint a management company. However, a fund that is set up as a variable capital company does not need to appoint a management company and instead may be a self managed fund managed directly by its own board of directors. Once a management company has been approved by the Irish financial regulator, it can manage any number of Irish funds.

What does a management company do

As the name suggests, a management company provides for the management and control of an Irish fund. However, it is normal for a management company to delegate some of its activities to an investment manager and a fund administrator.

What does the application process consist of

UCITS management companies

The application process for a management company is more detailed than that of a promoter. The application consists of the submission of:

- application form;
- business plan; and
- individual questionnaires for the directors and senior managers of the management company.

Again, in assessing such an application, the Irish financial regulator will concentrate on the expertise in the proposed management company and also its financial standing.

Note that although a management company of an UCITS fund will be authorized under an EU Directive, currently there is no passport available to allow an Irish management company provide its services to funds set up in other European jurisdiction.

Also, a management company can only provide management services and may only engage in ancillary services which are necessary to its main activity.

The Irish financial regulator has issued a guidance note on the substance requirements for UCITS management companies. This guidance note sets out that the management company must have at least two Irish directors. Also, the management function should include the following;

- Decision making
- Monitoring compliance
- Risk management
- Monitoring of investment performance
- Financial control
- Monitoring of capital
- Internal audit
- Supervision of delegates

In its guidance note, the Irish financial regulator has stressed that although a management company may delegate some of its functions, it may not do so to the extent that it becomes a letter box entity.

Ongoing regulation

There is a more detailed regulatory regime in place for management companies. The regulatory rules consist of ongoing financial reporting that is, half yearly financial and annual audited accounts. In terms of capital, the management company must have the higher of EUR 125,000 or a quarter of last year's fixed overheads. In addition, if the net asset value (nav) of the funds under management exceeds EUR 250 million, the management company must provide additional capital of 0.02 percent of the amount of the nav exceeding EUR 250 million subject to an overall maximum of EUR 10 million.

Non-UCITS management company

There are no fixed rules in terms of the application materials that must be submitted for a non-UCITS management company and so the application

process is normally shorter. The ongoing supervisory requirement for a non-UCITS management company is similar to that of an UCITS management company that is, its capital requirement is that it maintains the higher of EUR 125,000 or a quarter of last year's fixed overheads. It must also submit half yearly financial and annual audited accounts.

Investment manager

The investment policy of each fund is set out in its prospectus. However, the day to day management of the portfolio is usually delegated to an investment manager.

While there are a number of investment managers based in Dublin, most investment managers of Irish domiciled funds are non-Irish domiciled.

Existing investment manager

The current regulatory status of the investment manager will dictate the type of process that it will go through with the Irish financial regulator:

- EEA investment manager subject to MiFID

Where the investment manager is already regulated elsewhere in the European Economic Area under the Markets in Financial Instruments Directive (MiFID) it will not be subject to any authorization process and instead to a simple notification process

- EEA investment manager not subject to MiFID

Here, the Irish regulator will require confirmation from the home state regulator that it regulates the investment manager under different regulatory legislation.

- Non-EEA investment manager

In these circumstances, the Irish financial regulator will require the investment manager to go through a detailed approval process.

New investment manager

However, if it is proposed to establish a new investment manager in Ireland then such an entity will normally require to be regulated under MiFID. This is a detailed application which consists of:

- the submission of application forms
- business plan
- financial projections

- individual questionnaires for directors and senior managers

Such an application takes about six months.

Once authorized, an investment manager is subject to a number of regulatory requirements including a code of conduct. It will also be subject to the Capital Requirements Directive and must submit management accounts and capital adequacy returns either monthly or quarterly. In addition, it must submit its annual audited accounts. In certain circumstances, the investment manager may also be subject to client money rules.

Trustee/custodian

Every fund must appoint an independent trustee or custodian whose prime role is to safeguard the assets of the fund and act in the interests of investors.

Who can be a custodian

A custodian must be:

- a credit institution authorized in Ireland;
- an Irish branch of an EU credit institution; or
- an Irish incorporated company which is wholly owned by an EU credit institution or equivalent in another jurisdiction provided that the liabilities of the Irish company are guaranteed by the parent institution.

Custodians falling under bullet one will be subject to the banking directives and have a minimum capital requirement of EUR 6.35 million. However, custodians falling under the second and third bullets will usually be regulated under the Investment Intermediaries Act 1995 and their capital requirement is the higher of EUR 125,000 or a quarter of last year's fixed expenses.

The Irish funds industry is served by all the large global custodians as well as regional custodian banks, all of whom have been approved by the Irish regulator.

What does a trustee/custodian do

Every Irish domiciled fund must appoint either an Irish trustee or an Irish custodian. In the case of a fund established as a company, it will appoint a custodian while a unit trust will appoint a trustee. Generally, there is no difference between the function which will be carried out by a custodian and that carried out by a trustee.

The essential role of a trustee is to protect the interests of the unitholders and to safeguard the fund's assets. This means that the custodian will hold the

assets of a fund on an ongoing basis; it will ensure that the investment management of the fund is carried out within the terms of the prospectus and that the pricing of the fund is properly carried out. The custodian issues an annual report on these matters which is provided to the fund's unitholders and to the Irish financial regulator.

Additional restrictions

No company may act as both a management company and a custodian. Transactions between a manager and a custodian must be carried out at arms length and solely in the interest of the investors. There can be no common directors between the trustee and the fund for which it acts.

Fund administrator

If it so chooses, a management company can delegate part of its functions to a fund administrator. A fund administrator basically provides the back office services for a fund. Its main duties involve pricing the assets of the fund and providing a net asset value, fund accounting and processing of subscriptions and redemptions of the fund. Fund administrators in Ireland are regulated under the Investment Intermediaries Act 1995 and/or the Markets in Financial Instruments and Miscellaneous Provisions Act 2007. The application process is very similar to that of an investment manager and includes application forms, business plan, and individual questionnaires for directors.

2.4 Listing on the Irish Stock Exchange

The Irish Stock Exchange (the Exchange) is recognized worldwide as a leading centre for listing investment funds. This has been achieved through a combination of effective and prudent regulation, flexibility, efficiency, and timely processing of listing applications. The Exchange is regulated by the Irish financial regulator.

Why list

There are a number of reasons why a fund would decide to list on the Irish Stock Exchange including;

A listing increases a fund's potential investor base

Certain institutional investors are restricted or prohibited from investing in unlisted securities or securities which are not listed on a recognized regulated stock exchange. Listing on the Irish Stock Exchange enables a fund to market to these institutional investors.

A listing allows investors to mark their fund investment to market

Many fund investors require a publicly quoted stock exchange price for their investment.

A listing increases a fund's prestige and profile

The fact that the Exchange is a recognized European Exchange which is well established and regulated can be used as a marketing tool by fund promoters.

Listing provides publicly available information for investors

All net asset values of listed funds are reported through the Exchange's information system and are carried by Reuters, Bloomberg, and other news services. They are also available to investors on the Exchange's own Web site.

How to list

The listing process consists of the following steps:

Step 1: Appoint a sponsor

Each applicant fund must appoint a sponsor. Currently there are ten authorized sponsors in Ireland. These sponsors are responsible for ensuring that the applicant fund is suitable for listing before submission of any documentation through the Exchange and then deals with the Exchange on all matters relating to the matters relating to the application.

Step 2: Comply with Exchange Conditions for Listing

The requirements for listing a fund on the Exchange are set out in a rule book known as Investment Funds - Listing Requirements and Procedures or more commonly as the Green Book. These rules are based on the listing rules of the London Stock Exchange known as the Yellow Book. The sponsor must ensure that the fund can meet the conditions for listing before applying to the Stock Exchange. However, there is a great deal of overlap between the Exchange conditions for listing and the authorization conditions imposed by the Irish financial regulator.

Step 3: Submit draft listing document/prospectus to the Exchange for approval

The sponsor will ensure that the fund submits a listing document for review by the Exchange. Usually this document will also be the prospectus which is used to promote the fund to the investors. There are a number of specific disclosures that must be included in the prospectus.

The standard turnaround time is five days for an initial submission and two days

for subsequent re-drafts. For urgent applications, the submission can be turned around in two and one-half days and redrafted in one. There is an additional fee for this service.

Step 4: Approval of listing document and submission of "48 hour" documents

Once approved by the Exchange, the listing document must be signed off by the sponsor and the fund's directors before publication. In addition, backup documentation including specific contracts, certain documents and directors' details and confirmations must be submitted at least 48 hours before the fund is due to list.

Step 5: Listing

Once shares or units in the fund are issued, the listing will proceed on the day requested by the fund promoters.

Step 6: Ongoing obligations

Once listed, fund must continue to comply with conditions for listing and must comply with certain ongoing obligations of the Exchange.

Non-Irish domiciled funds

The Exchange has listed funds that are registered / domiciled in almost every established funds centre in the world. However a fund which is not subject to regulation within the EU, the Channel Islands, the Isle of Man, Bermuda, or Hong Kong must be confined to sophisticated investors that is, have a minimum subscription of EUR 100,000.

Ongoing obligations

General disclosure obligation

A listed fund must immediately inform the Exchange of any price sensitive information, material new developments and any material change in performance or financial position.

Accounts

Annual accounts must be sent to the Exchange and unitholders within six months of the accounting year-end. There is a similar requirement for interim accounts, with the deadline changing to four months.

Capital

Notifications must be made where there is an alteration to capital such as, new issues of debt securities or issues effecting conversion rights.

Interests in units

Notifications must be made in relation to controlling shareholders', directors', or investment manager's interests and for closed-ended funds, holdings of 10 percent or more in the fund's share capital.

Unitholders rights

Proposed variation in the rights of unitholders require prior notification and in certain circumstances prior approval.

2.5 Irish funds industry association

The Irish Funds Industry Association (IFIA) is a representative body for the Irish funds industry. It was founded in 1991 and it represents fund promoters, managers, custodians, administrators, and professional advisory firms involved in the funds industry in Ireland. Membership of the association represents the entire spectrum of service providers and professional advisors in Ireland.

The IFIA plays an important role in raising the profile of the funds industry in Ireland and promoting Ireland as the prime domicile for UCITS and the preferred choice for the administration of funds, particularly hedge funds.

The IFIA has a full time secretariat based in the Irish International Financial Services Centre and it has an elected council of 12 members which govern the association. In addition, there are a number of subcommittees and working groups within the IFIA and these include:

- Legal and regulatory
- Human resources and training
- Marketing
- Technical
- Trustee
- Transfer agency
- Alternative investments

KPMG in Ireland is well represented on these committees and also is a regular participant in submissions.

The IFIA also represents Ireland at the European Federation of Investment Funds Association (FEFFI) and monitors closely the work carried out by the Committee of European Securities Regulators (CESR).

Through their representation on and participation in governmental and industry committees, both the IFIA and KPMG in Ireland have played an important role in the development of Ireland's regulatory and legislative framework. The IFIA is also a valuable information resource for the industry in the various papers and technical briefings which it provides.

Their Web site can be found at www.irishfunds.ie.

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