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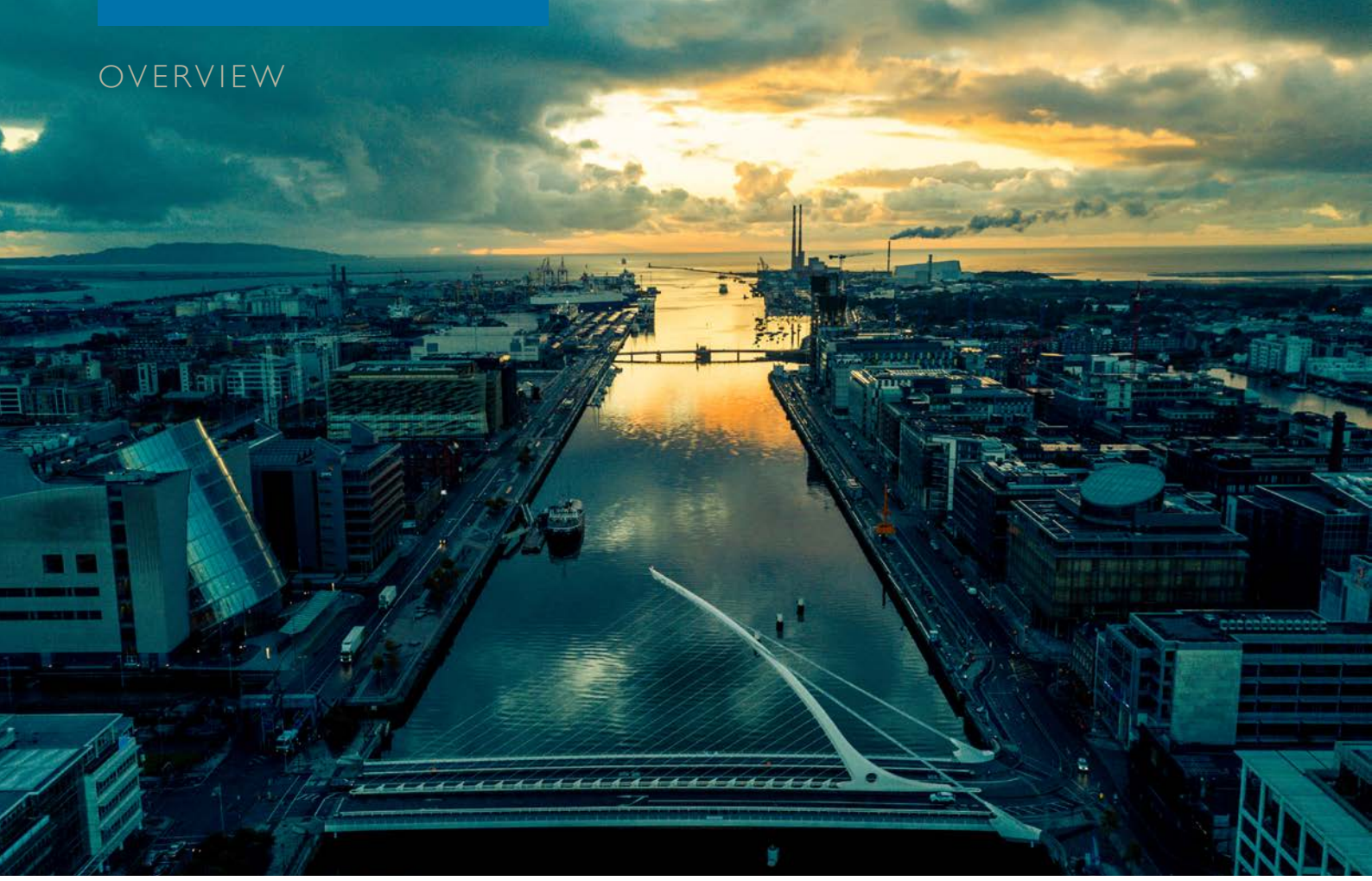


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Irish ILP to boost AIFMD as a brand

By A. Paris

When the Alternative Investment Fund Managers Directive was enacted, there was talk of AIFMD becoming a brand to rival UCITS. The latest enhancements to the Investment Limited Partnership (ILP) structure in Ireland may well oil the wheels in the journey to making this a reality.

Following the initial frosty reception of the AIFMD, the fund industry has grown increasingly comfortable with the regulation. This happened concurrently with the dramatic rise in institutional investors' needs around transparency and disclosure.

Paul Whelan, CSC Global managing director, head of depositary services, comments: "AIFMD is becoming a more recognised brand. UCITS is well known in the retail space on the mutual fund side. Although AIFMD is not yet up to the level of UCITS, it has and will become a more powerful brand. Investors recognise this now and are often specifically looking for an AIFMD regulated manager."

The ILP gives managers the opportunity to offer investors a regulated product built to cater for private and real assets, investment areas which are expanding in the current environment. The structure is essentially an AIF under AIFMD, which will need to appoint an AIFM for the investment management of the fund. If a European AIFM is appointed, then the ILP will be able to benefit from the AIFMD marketing passport.

Momentum is continuing to build behind the AIFMD brand and industry experts believe the ILP can be considered to represent a tipping point, with Ireland at the centre. This new structure can encourage managers outside Europe to set up a fund in Ireland, driven by the promise of a strong yet pragmatic regulatory approach.

"The introduction of the ILP has meant managers who previously considered the Irish regime but did not have access to the ideal legal structure now have an additional option to set up a world-class private equity, credit, real

> *"The introduction of the ILP has meant managers who previously considered the Irish regime but did not have access to the ideal legal structure now have an additional option to set up a world-class private equity, credit, real asset or closed-ended sustainable finance fund in Ireland."*
>
> Peter Stapleton, Maples Group

asset or closed-ended sustainable finance fund in Ireland," observes Peter Stapleton, head of the Funds & Investment Management team at Maples and Calder, the Maples Group law firm.

Colin Farrell, partner, PwC Ireland notes: "The updates to the ILP regime significantly enhance Ireland's product suite for private fund managers at a time when tailored investment structuring is of paramount importance."

In a newsletter, partners at Walkers point out: "While the statistics paint a very positive picture, the reality is that Ireland has fallen behind its counterparts in relation to its offering to private equity stakeholders. While the ICAV has proven to be a very successful introduction to the Irish fund product offering, it has not captured the attention of private equity managers and investors, who are familiar with, and have always had a preference for, limited partnership structures. The absence of a 'fit-for-purpose' partnership vehicle is considered by many to be the biggest gap in Ireland's current financial services offering."

The ILP is considered by many to fill this gap.

A familiar structure

A further incentive for managers to use the ILP is the familiarity it provides for those hailing from countries like the US, Canada and Australia. Stapleton outlines: "There's a significant appetite for a common-law product that looks and feels like what managers have used in other global domiciles before. The ILP is going to fit very nicely into that category and continue to grow under the AIFMD brand. There is a strong likelihood that the two will go hand in hand and the success of one will augment the chances of success of the other."

"The ILP shares characteristics with the commonly-used, tax transparent Delaware or Cayman structures. Given that Ireland is a common law country – the only such country in the EU post-Brexit – it is anticipated that the ILP will particularly appeal to fund promoters and managers in other common law countries, such as the US, UK, Hong Kong and Australia," write Conor Houlihan and Sean Murray, both partners at DLA Piper.

BNY Mellon underscores that Ireland's amended ILP structure enhances its flexibility and brings the Irish ILP offering up to the standard of other leading European jurisdictions. "Combined with Ireland's existing favourable legal characteristics, ILP reform should make Ireland a more attractive place for alternative asset funds to raise capital over the long term. In addition, US investment managers that are familiar and comfortable with the ILP structure in locations such as the Cayman Islands and Delaware will now be able to leverage Irish ILPs' tax transparency and the large range of tax treaties that Ireland has with other countries," the firm says.

In addition, Dermot Finnegan, global head of private markets administration at BNY Mellon continues: "The legislative changes are a welcome arrival aligning Ireland with other domiciles and their current approaches, giving it the opportunity to become the domicile of choice for private asset vehicles."

Outlook for growth

In January 2021, PwC estimated that around 150 international asset managers who already manage funds in Ireland will be taking advantage of the new ILP structure.

The outlook across the industry is positive. Imelda Shine, managing director Ireland – Intertrust Group, comments: "We expect that the ILP amendments will drive strong activity across the new year. It makes Ireland a highly attractive jurisdiction for private capital asset managers – especially those based in the UK, US, Europe and Asia.

"The new legislation will result in further private investment fund structures being set up in Ireland. The country's already a leading jurisdiction for both domiciled and non-domiciled funds – Ireland administers 40% of the world's alternative investment funds, for instance – but this new legislation could see that number rise significantly."

Further, as investor appetite for private assets and infrastructure funds continues to ramp up, PwC's Farrell discusses the demise of the one-size fits all solution. He says: "Going forward, asset managers and their advisers will need to take a more holistic approach to structuring investment platforms and, in doing so, critically assess and weigh up the pros and cons of each layer in the structure. The broader asset management infrastructure will need to have the flexibility to service these tailored solutions in an efficient and effective manner.

"The enhancement of the ILP means that Ireland has taken a very positive step in its continual evolution to meet the needs of an ever-changing market." ■



Maximising the growth potential

Interview with Ross McCann

Various market forces are driving prospects for alternative managers globally, with Ireland being a key destination. Persistent low interest rates are pushing institutional investors towards alternative assets. This, coupled with the Covid pandemic further curtailing appetite for bank lending, has created opportunities for managers, particularly in the debt/credit spheres.

In Ireland, accelerated growth is expected to come from the private funds sector, following the launch of the enhanced Investment Limited Partnership (ILP) in December 2020.

From its perspective, Alter Domus is poised to make the most of this new development and support its existing and prospective clients with "full-suite" offerings under one roof. The firm is due to open a depositary business under new Irish regulatory guidance for Depositary of Assets Other than Financial Instruments ("DAoFI"), which is expected to directly complement the launch of the ILP. The firm is also adding an Irish ManCo business to provide AIFM services and complete the full service offering.

The ability to provide a full service solution is a compelling component for the 1,000 or so managers who are already in Ireland and want to do business in the jurisdiction. It will put Alter Domus in strong stead for 2021 and beyond. It was also well-timed in terms of the Covid recovery and will help accelerate the firm's momentum over the course of the year.

Ross McCann, Head of Fund Services, Ireland, comments: "Locally, we have been setting up our firm to take advantage of the anticipated new business coming from private funds here in Ireland. This involves us expanding our service line to have an even stronger administration and corporate services offering. We are also due to open a ManCo business, in addition to the real assets depositary." Alter Domus is making these additions to bolster its efforts in offering managers a one-stop-shop.

Discussing the way the business adapted and reacted to the pandemic, McCann outlines: "After an initial pause in March 2020, we ramped up our recruitment in Ireland and have been successfully onboarding people remotely, with 80 new hires in 2020 and an additional 100 this year. It hasn't been without its challenges, but it's really positive that the business has continued to grow strongly over this period. Looking ahead at 2021, we see further growth.

Investment managers are continuing to get new funds ready or have existing funds take advantage of the investment opportunities present in the market.

"From our perspective, it's hugely exciting. Many opportunities are coming together at the same time; the market for private assets is growing and now we have best in class products to offer in this space with the ILP. We really look forward to Ireland pushing forward in that regard and acting as a gateway for managers to fundraise in Europe, with a greater share of funds domiciled in Ireland."

Alter Domus in Ireland also recently announced a move to new offices for its Cork Centre of Excellence, designed with the new way of working in mind; embracing an aspect of working from home, while maximizing productivity and collaboration of any teams in the office.

Outsourcing prospects

In McCann's view, the investment opportunities in private assets for managers as well as challenges around greater regulatory and investor reporting demands are leading to even more compelling arguments to use outsourced partners as well: "This all bodes well for the fund industry, including the fund service provider support network, to grow. There's an incredible amount of dry powder out there which means managers need to focus on their core business, comprised of deploying capital, managing their assets and their investor relationships.

"Together with the ever-changing regulatory environment, this is driving managers to outsource more strategically. When working with third parties, managers need stability and they want their service providers to take on more of the heavy lifting in terms of regulatory and investor reporting requirements."

Outlining the specific prospects of the ILP in more detail, McCann comments: "The timing of this is quite good, in the sense that we can see a large amount of growth coming from North American managers looking to Ireland as a gateway to Europe in terms of funds and fundraising. As a result of Brexit, Ireland also stands to benefit given the legal, cultural and language similarities shared with the UK and North America along with having a strong onshore domicile reputation, whilst being a firmly committed member of the European Union."

He lauds the general ease of doing business in Ireland and the ability to set up in the jurisdiction swiftly: "Ireland is a global hub which has the depth of expertise needed, in terms of the service providers and the advisors. We're not just seeing providers grow; many managers have set up in Ireland over the last few years on the back of Brexit.

"Cost and tax efficiency also remain key factors for managers looking to domicile their funds here and it's important that Ireland remains competitive. More institutional investor involvement when it comes to structuring products, fee negotiations, and investor reporting terms means managers need to have the ability to be flexible and their service providers need to fully support them in their efforts."

Key support network

Although the environment is largely encouraging, especially for closed-ended funds or funds investing in illiquid assets, many unknowns still remain. McCann details: "One of the main challenges managers coming to Ireland may face is a general unfamiliarity with the jurisdiction, especially if they come from outside Europe. Thankfully, this can be addressed by having a strong network of advisors, lawyers and service providers who can really guide and partner with them through setting up here and operating here.

"Getting to grips with local regulation can be a struggle, where understanding the particulars of the regulatory reporting required and other such intricacies is key. Here once again, managers will benefit from using service providers who have in-depth, local experience and can take on that type of work in the background. Our work is essentially about letting the managers continue to focus on taking advantage of opportunities and managing assets." ■



Ross McCann
Head of Fund Services Ireland, Alter Domus

Ross joined Alter Domus in September 2015 as Head of Fund Services in Ireland. He holds a number of regulated roles and Director's mandates, is a member of the Board of Alter Domus Fund Services (Ireland) Limited and has over 15 years of financial services experience having managed in-house teams for Private Equity Investment Fund Managers in Ireland and Canada. Prior to joining Alter Domus, Ross was part of the Private Equity & Real Estate management team at JP Morgan. Ross has extensive experience of services to both Fund Managers and Investors, relationship management and regulatory requirements, including client/fund onboarding, launch and the specialist administration of illiquid and semi illiquid asset class funds.



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Flexibility bodes well for ILP uptake

Interview with Peter Stapleton & Aaron Mulcahy

In a hunt for yield, investors have been enticed to consider allocating to illiquid asset classes in long-term, closed-ended products. Limited partnerships have been and continue to be the structure of choice for such investments, particularly for private equity (PE) and venture capital (VC).

Against this backdrop, the Irish Government has worked to modernise and enhance the existing Irish investment limited partnership (ILP) legislation with the view to making Ireland a global location for private equity funds*. As discussed by Peter Stapleton, head of the Irish Funds & Investment Management team at Maples and Calder, the Maples Group's law firm and his fellow partner Aaron Mulcahy, the outcome of this exercise is a modern, efficient, regulated yet flexible partnership vehicle.

A regulated partnership

The ILP is a common law tax transparent partnership that is regulated by the Central Bank of Ireland (CBI). As a regulated structure, the ILP can be set up as a qualifying investor AIF (QIAIF), which is designed for sophisticated investors who commit at least EUR100,000 (or the currency equivalent).

"ILP QIAIFs are very flexible and can be structured to suit all major investment strategies and can avail of a full suite of liquidity options making it suitable for PE, VC, sustainable finance, real estate and infrastructure," explains Mulcahy. "ILP QIAIFs are also not subject to legal risk spreading obligations making it suitable for concentrated portfolios."

Mulcahy highlights one of the key selling points of the ILP QIAIF is its speed to market. "Provided that all service providers (alternative investment fund manager (AIFM), investment manager, depositary, administrator) are approved by the Central Bank in advance, the ILP can avail of the CBI's 24-hour authorisation process", Mulcahy explains. "A further key selling point is the pan European marketing passport that can be availed of where the ILP has an EU AIFM."

Stapleton adds: "The modern and efficient ILP seems to sit in a space which offers a good balance between regulation and flexibility and will be a very attractive option for investors who have a preference for or require a regulated fund".

Enhancements

The updated ILP legislation came into effect on 1 February 2021 and introduced a series of best practice features designed to make ILPs run in a more efficient and certain manner. These include limited partner (LP) focused enhancements such as provision for LP participation on LP investment committees.

Mulcahy describes one noteworthy element in the new ILP legislation as "the ability for managers to choose an official name in a different script and register that alternative name with the CBI". Stapleton adds: "This is a good example of something which can seem like a relatively minor enhancement but is actually very helpful. Fund managers aim to make their products available to as wide an investor base as possible. So, when marketing funds overseas, being able to brand an ILP in the local language is very beneficial. It avoids any disconnect between the official and translated name and also works well from a branding perspective." This is expected to be an attractive feature for managers looking to tap into large pools of sovereign and institutional wealth in Asia and the Middle East.

Sustainability outlook

The enhanced ILP comes at opportune time when sustainable finance and ESG is the dominant theme in the European investment industry. Stapleton comments: "Its flexibility and speed to market position the ILP to play a significant role in raising private capital to meet sustainable investment targets set by the European Commission." He adds: "sustainable finance is currently one of the fastest growing asset classes in the market. Managers have already taken full advantage of the flexibility provided by QIAIFs to invest in a wide range of sustainable asset classes and this trend is likely to gain more traction with the recent enhancement of the ILP".

Broad suite of services

When it comes to taking this enhanced product to clients, the Maples Group is in the fortunate position of having

worked with nine of the world's top ten PE managers for decades. "We have built up a lot of trust in dealing with these partners. Therefore, when we discuss a new investment product or opportunity with them, there is a level of experience and expertise within that relationship which means they trust us when we tell them this is something which will really work for them," Stapleton notes. He adds that the firm is an innovative legal adviser in that it is proactive in bringing new developments to clients and also offers a broad suite of services. Stapleton continues: "In additional to legal, regulatory and tax advice, colleagues across the Maples Group can provide a wider range of services including management company services to ILPs and or providing GP and AIFM solutions, specialist fund administration and registered office, board support and fiduciary services to GPs".

Challenges and opportunities ahead

Mulcahy underlines that "there will always be challenges with any new or revamped product". That being said he is very confident about the upgraded ILP, noting "the Irish Government worked in collaboration with the Irish funds industry and the CBI to enhance the ILP and the result of this collaboration is a modern, efficient, regulated yet flexible partnership vehicle." He also added, "in parallel with legislative enhancements, the CBI has published helpful guidance clarifying the ability of closed-ended QIAIFs to facilitate key features of PE funds, such as excuse and exclude, stage investing and management participation through carry". "The legislative enhancements together with the helpful product guidance should lessen the challenges facing the ILP", he noted.

Outlining the future uptake of the ILP, Stapleton believes one of the crucial drivers is the thirst managers have to offer innovative products to their clients: "GPs want to meet their investors' demands and are constantly screening a variety of domiciles to understand the products available. They then try to match the best they find with their investor requests and needs.

"When building products, managers aim to position their fund to be as attractive as possible. In view of this, features like the potential for local branding, the flexibility around asset classes and further clarity around limited liability of LPs offered by the ILP, help support those efforts." ■

**Ireland for Finance: The Strategy for the development of Ireland's international financial services sector to 2025.*



Peter Stapleton
Head of Investment Funds, Maples and Calder

Peter heads Maples and Calder's Funds & Investment Management team at the Maples Group's Dublin office. He regularly advises investors, sponsors, fund managers and investment banks on the establishment, structuring, financing, public and private distribution and ongoing operation of UCITS and AIFs, including hedge funds, funds of funds, master feeders, private equity funds, managed account platforms and bespoke structures. Peter also has significant expertise advising on derivatives, prime brokerage, investment services, MiFID and securities law. His clients include financial institutions carrying out business in Ireland, or transacting with Irish-domiciled counterparties from other jurisdictions. Peter holds several senior positions on industry groups and regularly works with Irish regulatory and governmental bodies on enhancing Ireland's financial services regime. He is a recognised legal expert in the ESG and sustainable investment space and works with some of the world's largest managers and financial institutions to implement their internal policies as well as external standards such as UN PRI and the EU's Sustainable Action Plan.



Aaron Mulcahy
Partner, Funds & Investment Management, Maples and Calder

Aaron is a partner of Maples and Calder's Funds & Investment Management team in the Maples Group's Dublin office. He advises on a wide variety of legal and regulatory issues facing Irish domiciled collective investment schemes (CIS), and has particular expertise in the establishment, operation and regulation of all types of Irish CIS, including UCITS and AIFs. He currently sits on industry association committees dealing with money market fund and limited partnership reform. He also advises a wide variety of fund service providers, including AIFMs, delegates of AIFMs, administrators, custodians / depositaries and prime brokers.



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Enhancing efficiency and time-to-market

Interview with Paul Whelan & Liam McHugh

Managers looking to take advantage of the new structure launched in Ireland, the Investment Limited Partnership (ILP), will be able to maximise cost efficiency and time-to-market. The Irish legislation allows the adoption of an umbrella structure, meaning managers can launch sub-funds swiftly and save on legal and audit fees.

"A General Partner ("GP") can have sub funds in the LP, which have segregated liability between them. This offers speed to market for those sub-funds since the manager will have the legal structure and the necessary service providers all lined up for the umbrella fund. Therefore, adding a sub-fund will not take long," explains Paul Whelan, CSC Global Managing Director, Head of Depositary Services, "it also offers cost efficiency because it's much cheaper to have an umbrella with multiple sub funds than setting up segregated funds. You avoid fee duplication, although there will be some additional cost, these will not increase exponentially with increases to the number of sub-funds within the umbrella."

GPs can use sub-funds when they want to create a new category of investors or add an investment class. For example, they could have infrastructure, private equity, private debt, real estate and credit sub-funds all under one umbrella, with different investors in each. Further, the assets and liabilities of the sub-funds are ring-fenced.

The ILP is particularly attractive to US managers looking to break into the European market. Whelan comments: "For the first time, Ireland is on a level playing field when it comes to limited partnership legislation and will be a very attractive option for US

managers coming to Europe. They are very familiar with the limited partnership structure for real assets and this new legislation now means it's easy for managers to set up a fund in Ireland. In fact, we expect to see a significant increase in the number of US managers establishing real assets funds in Ireland."

Liam McHugh Managing Director, European Fund Administration, notes: "If you look at the funds industry in general, you can see that the percentage of global ETFs and hedge funds administered and serviced from Ireland is in excess of 40%. When you consider closed ended, private equity and real estate funds, that figure drops off significantly.

"We have had the servicing infrastructure in place for a while and that has been proven to work for these other fund structures. However, we've been missing that legislative infrastructure piece which we now have as a result of the ILP.

"The industry has witnessed significant growth in the area of limited partnership and real assets funds over the recent years. We see the potential for the Irish industry in this regard is significant. The fact that these types of funds are starting from a relatively low base means you're going to see significant spike in growth over the next number of years. This is until it stabilises and we'll see more regular growth in the markets," McHugh outlines.

From its perspective, CSC has set itself up to cater for this growth. Whelan elaborates: "We are a specialist provider in the space. Our fund services business is set up to specifically focus on real asset managers and have brought in very experienced people to run it. We have developed a model which is very flexible and pragmatic and meets the needs of our clients.

"It's important that as the professionals running the depositary, we understand the manager's product. It's important to know the asset class, the fund structures and also be aware of how the managers operate. This allows us, as a depositary, to build a model which fits in with the managers operations, rather than imposing a checklist driven model which wouldn't serve our clients well."



Direct manager outreach

McHugh discusses the specific outreach CSC has been doing in relation to the ILP: "We have been going through an exercise of preparing to communicate the ILP and its benefits to our US client base and network. As the largest corporate services provider in America, we have a sizable client base among alternative asset managers in the US. We have been going through the process of bringing this message to them, through webinars and directly through our sales teams and business leaders."

The firm is also collaborating with other service providers in Ireland, in legal, tax and other areas. This will help provide a combined offering for US or non-European managers as they look to break into the Europe market.

Whelan elaborates: "We have spent a lot of time talking to law firms, consultancy firms and distributors to understand what they're doing and how. This way we have built a list of key contacts who we can introduce to managers looking to domicile their fund in Ireland."

"Once travel bans are lifted, we will spend a significant amount of time speaking directly to US managers to understand their needs and provide them with solutions beyond just selling our fund administration, depositary and capital market services. We want to explain the process of establishing funds in Europe, discuss different options and utilize our extensive network to introduce trusted contacts in the audit, legal and distribution spaces who can provide expert advice and guidance."

"Ultimately, all managers coming to market with a new product or a new fund want to launch their fund in a timely manner, once capital is raised and they have investors on board. They want their funds to be serviced to the highest possible standards and that is what we aim to provide." ■



Liam McHugh
Managing Director, Fund Administration, CSC

Liam McHugh is the managing director of Fund Administration for CSC Global Financial Markets. He is responsible for building the European regional fund administration offering and liaising with CSC teams across Asia-Pacific and the United States. Liam relocated to Dublin in 2020 from our Singapore office where he served as managing director for Fund Administration for the APAC region. Prior to joining CSC, Liam served as regional head of operations at Apex Fund Services, following the acquisition of Equinoxe Alternative Investment Services, where he previously served as regional CEO for Asia. Liam is a member of the Association of Chartered Certified Accountants, having qualified in 2007 in Ireland, and he served as vice chairman of the Singapore Fund Administration Association from 2015 to 2017. Liam holds a bachelor of business studies (specializing in finance) from Dublin City University.

Paul Whelan
Managing Director, Depositary, CSC

Paul Whelan is the managing director of Depositary Services for CSC Global Financial Markets (GFM), establishing CSC's Depositary services in Ireland, designing and launching complementary product offerings in all European locations, including Luxembourg and the Netherlands, as well as liaising with clients in the US as they look to invest in Europe. Previously, Paul served as managing director and global head of Depositary and Custody services at the European Depositary Bank and prior to that, at Deutsche Bank as head of depositary services. Paul is a seasoned leader whose wealth of experience and technical expertise from over 20 years in the funds industry will play a key role in shaping the vision and future of CSC's Fund Services business. Paul is a graduate of Dublin City University where he received a Bachelor of Business Studies, specializing in finance.

ILP a preferred vehicle for private strategies

Interview with Vanora Madigan



Private assets have experienced significant growth in the last few years and Ireland is now set up to further benefit from this expansion through the Investment Limited Partnerships (Amendment) Act 2020 (ILP Act) which was enacted into law in December 2020.

"Private equity funds have performed well and are increasingly popular with investors and asset managers alike," observes Vanora Madigan, executive director, DMS Governance, "These funds are established in Ireland as Qualifying Investor Alternative Investment Funds (QIAIFs) which have few investment restrictions and allow PE managers to raise capital within the EU marketplace with relative ease by availing of the marketing passport."

Looking ahead, DMS Governance expects the enhanced ILP structure to be the preferred vehicle in Ireland for private asset investment strategies including private equity, private debt, real estate, credit, venture capital, infrastructure, and energy. This, coupled with the 24-hour Central Bank QIAIF authorisation process, augments Ireland's attractiveness for these types of funds.

The ILP reform will bring the legislation in line with similar partnership structures in other jurisdictions augmenting Ireland as an attractive domicile of choice for private equity and venture capital funds. Furthermore, the act will facilitate private equity (PE) managers in establishing parallel Irish structures for distribution to European investors through the use of the Alternative Investment Fund Managers Directive (AIFMD) marketing passport.

"The introduction of the ILP legislative changes has been long awaited by the industry and we anticipate new opportunities for private assets from our discussions with private equity managers," highlights Madigan. "This will have a positive effect on our business with Ireland positioned to offer a viable partnership structure, similar to that of Luxembourg. The enhancements to the ILP Act highlight Ireland's commitment to the investment funds industry, improving Ireland's attractiveness as a domicile for private equity funds and bringing certainty in securing Ireland's position as a leading fund domicile and competitive location for setting up private equity funds.

"With the revised ILP and updates to the AIF Rulebook, we are able to advise our clients of the benefits of the ILP, positioning Ireland as a world leading funds centre when structuring new private equity, infrastructure and green energy projects. The modernisation of the ILP which adopts the best of breed features from other fund domiciles allows for our private asset manager clients to consider setting up an ILP as an umbrella structure with multiple sub funds allowing for structuring flexibility."

Discussing the broader prospects of Ireland as a financial hub, Madigan notes: "As a growing financial service hub, we expect to see the trend continue of new asset managers setting up in Ireland or the expansion of those already with an Irish presence. As a group with continued commitment from our clients for our services including appointment as an independent third-party management company for alternative investment funds and UCITS funds, and with growing interest from investors, we are expanding our European headcount and will be adding to our 150 employees based in our two Irish offices, Dublin and Cashel in Co Tipperary." ■

Vanora Madigan
Executive Director, DMS Governance

As Executive Director within the relationship management team of DMS Investment Management Services (Europe) Limited, Vanora provides corporate governance advice and leads with the design and implementation of internal controls and operating procedures associated with regulated investment funds. Vanora has extensive experience in UCITS, AIFMD, and alternative investment vehicles and brings with her a background in legal investment and client relationship management with over six years spent at Fidelity Worldwide Investment in Dublin, servicing corporates, banks, pension funds and financial institutions. She previously served as a stockbroker with Cantor Fitzgerald and as an FCA regulated advisor at Lehman Brothers and with UBS Private Banking in London. Vanora is Vice Chairperson of the Irish Funds Marketing and Promotions Steering Group and Chairperson of the Irish Funds Publications and Communications Working Group.

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The appeal of a regulated partnership

Interview with Barry O'Connor

Regulation has been at the forefront of investors' minds ever since the global financial crisis in 2008. In the current environment, the need for oversight and monitoring is even more necessary as the industry navigates uncharted waters. However, this requirement for more robust supervision needs to be tempered with flexibility.

Ireland's amended Investment Limited Partnership (ILP) Act, which came into effect on 1 February, strikes a balance between regulation and broad investment capabilities. Barry O'Connor, partner in the Asset Management and Investment Funds Group at Matheson, explains: "Within the ILP and in contrast to similar vehicles in other jurisdictions the fund itself is regulated, which makes a significant difference to investors. This vehicle will sit within Ireland's existing Qualifying Investor Alternative Investment Fund (QIAIF) regulatory regime, which has been around since the 1990s and which has been incredibly successful. The QIAIF regime offers features that managers appreciate – like the speed to market – but it also has controls over governance aspects that are absent in unregulated vehicles and which are key to investors. Until now, the material gap in the QIAIF regime has been the lack of a suitable partnership vehicle and the enhanced ILP addresses that."

Under the QIAIF regime, the Central Bank of Ireland doesn't review the documentation in the vast majority of cases. Rather, it relies on confirmations from the lawyers. This means that, if all the documents and service providers are in order, a manager can make a filing with the Central Bank by 5pm one day, and have their fund approved the day after.

"Having a regulated fund in this space come to market in this kind of timeframe is very attractive to managers. The QIAIF regime also doesn't impose many limits on what the fund can invest in or the amount of leverage which can be applied. This is something which fund managers and investors are keen on. Therefore, this results in a vehicle which can invest in a broad range of asset classes and which can be brought to market quickly," O'Connor notes.

What the QIAIF regime does regulate are issues like monitoring and independent oversight, conflicts of interest, conduct, reporting, fitness and probity of directors etc. "The

regulatory regime provides several protections for investors without any of the elements which could cause a drag on the fund or stop the managers from doing what they want to do," O'Connor adds.

Greater on-shoring

Traditionally, investors largely got exposure to these alternative asset classes through unregulated funds. However, as more investors have been on-shoring their investments, motivated by tax implications and other factors, having a regulated alternative is particularly attractive.

"The appetite for more regulation has become a long-running theme in the industry. In addition to the current pandemic, the 2008 financial crisis and scandals like the Bernie Madoff fraud case caused investors to feel a bit lost. The investor sentiment was then complemented by the introduction of the Alternative Investment Fund Managers Directive, which drove managers and their clients towards regulated products. Further, for some investors, especially in the institutional and pension space, the need for regulated funds was then built into their mandates."

"This direction of travel towards regulated funds has been sustained but it's now being pushed along by tax issues as well. Having the Cayman Islands going on and off the European Union blacklist has left some investors wary of investing in Cayman funds because of the worry that the jurisdiction will be blacklisted again," O'Connor outlines.

Ireland has a strong track record in providing regulated alternative funds. O'Connor details: "Back when the focus on regulation began to ramp up, Ireland had a fantastic head start. We were one of the few, if not the only, jurisdictions in the world that offered hedge funds that were regulated."

Final piece of the puzzle

The ILP has completed Ireland's offer as a financial jurisdiction. The amended legislation provides the last piece of the puzzle, allowing Ireland to offer a suitable vehicle for all strategies and investor types.

"The main benefit of this law is not any individual feature of the structure itself, but rather the fact that Ireland now has a partnership that works. Before this law was enacted, managers had a hard reason not to come to Ireland when setting up partnerships – we simply didn't have the structure available. Now this has changed and we're on a level playing field with other jurisdictions like Luxembourg," O'Connor comments.

He believes the initial appetite for the structure will be from managers who don't already have a European footprint: "There is a lot more interest coming from managers who are coming to Europe for the first time and therefore with a completely clean slate– primarily from the US. This is because those who already have Luxembourg partnerships will be less likely to move existing funds or to use the ILP for the next vintage of an existing fund. However, those managers will consider the ILP as an option when looking to set up a completely new fund."

In O'Connor's view, the growth of the ILP will start off as a trickle which may then become a deluge: "I think it will be a slow burner initially but once it gets going, it could be very successful. For years, managers have been saying to us that "if only" Ireland had a suitable partnership, they would have set their fund up here." He says Matheson gave 52 presentations to clients and prospective clients between the middle of January and the end of February, which is indicative of the appetite for this structure.

Now that Ireland is on a level playing field in terms of the structures it offers, the jurisdiction can focus on its differentiating factors. O'Connor says: "Now that we're at the table and can have these conversations, we can highlight things that managers have said (all else being equal) attract them to Ireland, including that English is our first language and Ireland is a common law jurisdiction, which is familiar to managers outside of Europe. Also, other cultural factors come into play, such as service standards. We bring a solutions-driven mind-set rather than a more administrative approach which people might perceive is offered elsewhere." ■



Barry O'Connor
Partner, Matheson

Barry O'Connor is a partner in the Asset Management and Investment Funds Group at Matheson. He practices financial services law and advises many of the world's leading financial institutions, investment banks, asset management companies, broker-dealers and corporations carrying on business through Irish domiciled investment funds (ICAVs, investment companies, unit trusts, CCFs and ILPs) and Irish domiciled management companies (UCITS and AIFMs).



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