

A low-angle, upward-looking photograph of a modern glass skyscraper. The building's facade is composed of a grid of dark metal frames holding large glass panels. The sky is a pale, overcast grey. The bottom portion of the image is overlaid with a semi-transparent green gradient that matches the 'if' logo and the left margin bar.

WHY IRELAND

FOR MANAGEMENT COMPANIES AND INVESTMENT FIRMS

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WHY IRELAND MANAGEMENT COMPANIES AND INVESTMENT FIRMS

Ireland is a leading location for fund management companies and investment firms. More than 80 MiFID firms and 160 AIFMs, as well as almost 90 UCITS ManCos, are attracted by the numerous advantages Ireland has to offer as a domicile for cross border asset management.

Ireland is a key EEA jurisdiction for cross border fund distribution and is home to more than 7,000 funds with €2.5 trillion in assets that are sold to investors across the globe.

The Central Bank of Ireland (“Central Bank”) is responsible for regulating financial services providers in Ireland. It has extensive experience in regulating

investment funds, fund management companies and investment firms. Fund management companies and investment firms established in Ireland also have access to a well-educated, professional and multilingual workforce and can rely on the extensive knowledge and capabilities of Ireland’s financial services industry.

Ireland’s Competitiveness

- Ranked 1st in Eurozone and 8th globally for doing business
Source: Forbes Best Countries for Business Report, 2017
- For the 6th year in a row, Ireland ranked as 1st in the world for inward investment by quality and value.
Source: IBM 2017 Global Location Report
- The IMD World Competitiveness Yearbook 2017 ranks Ireland 6th most competitive globally, as well as:
 - 1st for Investment incentives
 - 1st for Labour productivity
 - 1st for Flexibility and adaptability
 - 1st for National culture
 - 1st for Attracting and retaining talent
 - 1st for Attitudes towards globalisation
- Ireland is the domicile for 5% of world-wide investment fund assets, making it the 3rd largest global centre and the 2nd largest in Europe.
Source: EFAMA International Statistical Release, Q3 2017
- 96% of responding multinational companies rate their investment in Ireland as a success. 9 out of 10 CEOs plan to increase or maintain their investment in Ireland.
Source: The PwC 2017 CEO Pulse Survey
- Over 40% of global hedge fund assets are serviced in Ireland, making it the largest hedge fund administration centre in the world and Europe’s leading hedge fund domicile.

IRELAND - A CENTRE FOR GLOBAL ASSET MANAGEMENT

Benefits

The Basics

- Predictability/efficiency of regulatory process
- 12.5% corporate tax rate
- Common law system
- Only English-speaking country in the Eurozone
- A committed member of the European Union

Asset Manager Activity

- Over 900 global managers already use Ireland
- Increased presence of front office activities
- 17 of the top 20 global asset manager have Irish funds
- €5trn total AuA, €300bn managed from Ireland
Source: Central Bank of Ireland 2018 and IAIM Pre-Budget Submission, June 2018
- Asset managers counterparties already in transit from UK

Infrastructure

- Space for 100K new employees by 2020, 100K new houses
Source: IFS 2020 Action Plan 2017 & IDA Ireland
- Leading global technology and fintech hub
- London-Dublin Most flight options in Europe
Source: OAG Busiest Routes 2018
- 35K+ employed in international financial services in Ireland, 16K in funds industry
Source: IFS2020 Strategy and Irish Funds Employment Survey 2018
- 130K degree-level graduates across business, law and STEM w/ 20K new grads p.a.
Source: Irish Association of Investment Managers and Higher Education Authority

Licensing options in Ireland

Managers seeking authorisation in Ireland can seek to become authorised as:

- a UCITS Management Company
- an Alternative Investment Fund Manager (AIFM)
- a “Super ManCo” (namely a dual authorised UCITS Management Company and AIFM); or
- a MiFID Investment Firm

Other options for managers include: a self-managed undertaking for collective investment in transferable securities; or an internally managed alternative investment fund.

The key factors in determining which licence is appropriate for a particular manager's business include:

- the types of activities in which it wishes to engage
- the amount of substance it can provide in Ireland
- what functions it wishes to delegate
- the number of funds managed/ their domicile
- cost

Establishing a Super ManCo may be an attractive option for a manager that is seeking to manage and sell funds throughout the EEA on a passporting basis while also allowing for the provision of ancillary MiFID add-on

services of portfolio management, investment advice and receipt and transmission of orders. Becoming authorised as a Super ManCo would enable the manager to passport both UCITS funds and alternative investment funds (AIFs) throughout the EU, while avoiding the need to establish a separate UCITS ManCo or AIFM as well as a separate fully-fledged MiFID firm.

On the other hand, obtaining a full licence under the MiFID regime may prove more attractive to a manager seeking to engage in a broader range of activities.

STRUCTURING OPTIONS: MANAGEMENT MODELS

Resourcing requirements

The level of resourcing needed in Ireland depends on the type of licence being sought as well as the nature, scale and complexity of the proposed business. Resourcing requirements will therefore vary on a case-by-case basis dependent on the specifics of the application.

Before granting a licence, the Central Bank will need to be satisfied that the management company or investment firm will have adequate levels of staff and expertise to carry out its proposed activities. In essence, this means that the entity in Ireland must be:

- adequately resourced with a sufficient level of senior management
- decision-making must take place in Ireland; and
- the risks associated with the entity's business must be governed, managed and mitigated by the Irish entity and its staff.

For UCITS management companies, AIFMs or Super ManCos which do not have MiFID “ancillary permissions”¹

The Central Bank has issued extensive guidance on fund management company requirements. This guidance sets out the roles, responsibilities and expectations in relation to directors and “Designated Persons”, including

location requirements² of these key personnel. “Designated Persons” (or DPs) are the individuals to whom the board of directors delegate the monitoring and oversight of the day-to-day managerial functions of the fund management company. In addition to the requirements set out in the fund management company guidance³, the Central Bank may impose additional resourcing requirements on a case-by-case basis, dependent on the nature, scale and complexity of the proposed application. This will be considered in a preliminary meeting with the Central Bank.

For MiFID entities and Super ManCos with ancillary permissions – Resourcing requirements are agreed with the Central Bank on a case-by-case basis and depend on complexity. ESMA has suggested that national competent authorities should apply “additional scrutiny” to applicants for authorisation, even those of smaller sizes employing simple investment strategies and having a limited range of business activities, that do not dedicate at least three locally-based, full-time employees to the performance of portfolio management and/or risk management functions and/or monitoring of delegates⁴. The Central Bank has undertaken a general update of all of its application forms in light of this ESMA opinion.

Which activities can be delegated?

ESMA recognises that delegation is “a key feature of the investment funds industry and that the flexibility to organise centres of excellence in different jurisdictions has contributed to the industry’s success”⁵. However, it expects those arrangements to be appropriately managed and controlled and to be fully compliant with all regulatory requirements. Moreover, outsourcing cannot result in the manager becoming a letterbox entity or limit the Central Bank’s ability to effectively supervise the firm. The Central Bank will require that full responsibility is retained and oversight is carried out in Ireland, but does not usually require the performance of all day-to-day activities in Ireland, provided that they are properly overseen in Ireland. Furthermore, AIFMD specifies that an AIFM is not permitted to delegate both the risk management function and the portfolio management function entirely.

Passporting

Ireland’s full membership of the EU means that MiFID investment firms, UCITS funds and AIFMs established in Ireland benefit from the right to passport services across the EU.

¹ An AIFM may be additionally authorised to provide individual portfolio management services and non-core services comprising of investment advice, safe-keeping and administration in relation to shares or units of collective investment undertakings and reception and transmission of orders in relation to financial instruments under Article 6(4) of the AIFMD. A UCITS management company may be additionally authorised to provide individual portfolio investment services and non-core services comprising of investment advice and safe-keeping and administration in relation to shares or units of collective investment undertakings under Article 6(3) of the UCITS Directive

² See the Central Bank’s Fund Management Companies Guidance (December 2016)

³ A management company (as determined by the Central Bank) must have at least: (i) two Irish resident directors; (ii) half of its directors resident in the EEA; and (iii) half of its managerial functions performed by EEA resident DPs. Other management companies, dependent on their categorisation by the Central Bank, must additionally have a third Irish resident director or, alternatively, at least two Irish resident directors and one Irish resident DP.

⁴ In its opinion addressed to national competent authorities to support supervisory convergence in the area of investment management in the context of the United Kingdom withdrawing from the European Union, dated 13 July 2017.

⁵ Steven Maijor, ESMA Chair, speech on 20 March 2018

STRUCTURING OPTIONS: MANAGEMENT MODELS

Fund Management Companies - Authorisation Process

1. Preliminary Meeting

A preliminary meeting is held in advance of any formal application being made to the Central Bank. Where the applicant is seeking ancillary permissions, the firm must complete a Key Facts Document (KFD). For all other cases, if a KFD is needed, this will be requested at or shortly after the preliminary meeting. The Central Bank will use the preliminary meeting (and the KFD if submitted) to advise the applicant of any significant issues which might negatively impact its determination of any application.

2. Preparation and Submission of Application

Following the preliminary meeting, the applicant should complete the relevant Central Bank management company application form and submit it to the Central Bank together with:

- a detailed business plan (for UCITS) or programme of activity (for AIFMs) or a combined business plan and programme of activity (for Super ManCos)
- completed online Individual Questionnaires (IQs) for all pre-approval controlled function (PCF) holders, including directors and DPs and beneficial owner

shareholders (i.e. all persons having a direct or indirect minimum 10% interest in the voting shares or capital of the entity)

- details of minimum capital, financial projections and detailed assumptions on which projections are based
- all information regarding ownership structure, including organisational charts
- ancillary documents (including confirmation of capital, authorised signatory list and statement of responsibility)
- any other information requested by the Central Bank during the preliminary review stage

Also required is information on AIFs which the AIFM intends to manage; and information of the remuneration policies and practices pursuant to AIFMD and the ESMA Remuneration Guidelines ESMA/2013/232.

3. Review of Application and Decision Timeline

The Central Bank must inform a proposed UCITS management company within 6 months of the date of receipt of a complete application whether or not authorisation has been granted. It must inform a proposed AIFM within 3 months of the date of receipt of a complete application whether or not authorisation has been granted, subject

to the ability of the Central Bank to extend the time period by a further 3 additional months, where it considers it appropriate. Regardless of the licence type, the timeframe undertaken by the Central Bank to make a determination on the application will not commence until a complete application is submitted.

MiFID Investment Firms - Authorisation Process

1. Preliminary Meeting

Prior to making a formal application for authorisation, a firm which is seeking authorisation as a MiFID firm must complete a Key Facts Document (KFD) and attend a preliminary meeting with the Central Bank.

The KFD will vary in length, depending on the complexity of the firm's business model. It must give a brief outline of the firm's background, as well as the reasons why it has selected Ireland as a location from which to carry out investment services and apply for a MiFID authorisation. It must include information on the firm's:

- business model
- clients
- structure
- intention on whether to hold client assets and how it proposes to manage them.

STRUCTURING OPTIONS: MANAGEMENT MODELS

The KFD must also set out the firm's high-level capital projections for the first three years.

The Central Bank will review the KFD and respond with any comments no later than 20 working days following its receipt. Once the Central Bank receives an acceptable KFD (addressing any comments raised by the Central Bank) it will arrange a preliminary meeting with the applicant firm within 20 working days. During the course of this meeting, the Central Bank will advise the applicant of any significant issues that could negatively impact on its assessment process, and also inform it of the authorisation process and time frames.

2. Preparation and Submission of Application

Following the preliminary meeting, the applicant should complete the Central Bank's MiFID authorisation form and submit it to the Central Bank together with:

- a detailed programme of operations
- completed online IQs for all PCF holders (including directors) and paper-based IQ for beneficial owners (with qualifying shareholdings)
- hard copy IQs for individuals who are qualifying shareholders
- shareholder information including group structure and required

- supporting documentation
- financial projections for the first 3 years of operation (with detailed notes explaining each line item)
- national discretion/derogation requests
- required client asset documentation, where applicable
- arrangements for both the orderly and forced winding down of the firm which ensures the protection of client assets and fair treatment of clients
- any other information requested by the Central Bank during the preliminary review stage

3. Review of Application and Timeframes

The Central Bank will issue comments to the applicant firm within 40 working days of receipt of the completed application. The applicant then has 20 working days to respond to these comments. Once the Central Bank receives these responses, it will issue a second round of comments to the applicant firm within 20 working days and the applicant firm then has 10 working days to respond to these comments.

The Central Bank will make a determination on the application within 6 months of receipt of a complete application. The timeframe undertaken by the Central Bank to make a determination on the application will not commence until the applicant submits a complete application. The

timeframe for the application will vary dependent on the nature, scale and complexity of the proposed business operation.

An investment firm or a management company must be incorporated in Ireland as a private company limited by shares, either as a designated activity company or more typically, as a private company limited by shares. The incorporation of a corporate entity takes approximately 2 weeks, which should be taken into consideration in any timeline and typically runs in tandem with the Central Bank's authorisation process.



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October 2018

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