



Marketing of Irish Investment Limited Partnerships

INTRODUCTION

The Irish investment limited partnership (the “**ILP**”), now re-shaped as a flexible fund investment vehicle following amendments made to the existing Investment Limited Partnership Act, 1994 (the “**ILP Act**”), is expected to become the fund structure of choice for many international investment managers, particularly those in the private equity and real assets sectors.

In this key features document, we briefly highlight some considerations relevant to the marketing of ILPs. For the purposes of this briefing, we have assumed that the ILP is established as a qualifying investor alternative investment fund (or “**QIAIF**”). A more detailed analysis of the ILP is available [here](#).

KEY POINTS

- In order to invest in an Irish ILP, investors will need to meet the “qualifying investor” criteria and “minimum commitment” criteria imposed by the Central Bank;
- Where the ILP has appointed an EU authorised AIFM, that EU AIFM will be able to sell the ILP anywhere within the EU to professional investors once it has completed a straight-forward cross-border notification with its own competent authority;
- The AIFM can also appoint local distributors within individual EU member states to market the ILP on its behalf provided that the local distributor has the appropriate licence to do so;
- The sale of the ILP in non-EU jurisdictions will be governed by local rules in the relevant jurisdiction.

Who can invest in an Irish ILP?

The Central Bank of Ireland (the “**Central Bank**”) imposes certain requirements relating to (i) the minimum amount of initial commitment applicable to a QIAIF and (ii) the type of investor that can invest in a QIAIF.

Minimum subscription

Each ILP must have a minimum initial commitment requirement per investor of €100,000 (or equivalent in other currencies). There is an exemption from this requirement available to (i) the general partner (or any director of such entity), (ii) any entity appointed as investment manager/investment advisor to the relevant ILP (or any director of such entity) and (iii) certain “knowledgeable employees” in respect of which the general partner of the ILP must satisfy itself as to their knowledge and expertise.

Type of investor that can invest in an ILP

The AIF Rulebook provides that investors in a QIAIF ILP must be either:

- (a) a “professional client” in accordance with MiFID II; or
- (b) receive an appraisal from an EU credit institution, MiFID firm or UCITS management company that he/she has appropriate expertise, experience and knowledge; or
- (c) self-certify that he/she has sufficient knowledge and experience to enable him/her to properly evaluate the investment or his/her business involves the management, acquisition or disposal of property of the same kind as the property of the ILP.

Professional clients under MiFID II include *per-se* professional clients including for example regulated banks, asset managers, insurance companies, pension funds and their managers and funds and their managers. Large undertakings meeting certain quantitative requirements relating to balance sheets, net turnover and own funds also constitute *per-se* professional clients. This category of investor also includes *opt-up* professional clients who do not constitute a *per-se* professional client but who meet certain quantitative criteria and choose to be treated as a professional client.

How can an ILP be sold in the European Union?

- (i) By the ILP’s AIFM where that AIFM is an EU authorised AIFM. The AIFM can market the ILP to professional clients anywhere within the European Union using its passport once it has completed the relevant (straight-forward) cross-border notification process with its own competent authority;

- (ii) By a local distributor or placement agent appointed by the AIFM provided that the local distributor or placement agent is regulated to sell the ILP to the relevant category of investor in its home jurisdiction;
- (iii) If it is the case that the ILP appoints a non-EU AIFM or a registered AIFM, that non-EU AIFM or registered AIFM will only be able to market the fund under the national private placement regime (or “NPPR”) available in the relevant EU Member State. It is worth noting that the specific rules imposed under the NPPR will vary from Member State to Member State and that certain EU Member States (including for example Italy or France) do not have an NPPR regime.

How can the ILP be sold in jurisdictions outside of the European Union?

The marketing of the ILP in jurisdictions outside of the European Union (including the United Kingdom) will need to comply with the local marketing rules set down by the competent authorities of the relevant jurisdiction.

Is it possible to accept investment into an ILP in the European Union on the basis of reverse solicitation?

Subject to local rules on reverse solicitation, this can be considered on a case by case basis.

Is it possible to sell an ILP to investors who are not “professional clients” under MiFID?

Yes, provided that (i) the relevant retail investor meets the “qualifying investor” criteria outlined above and (ii) any such marketing is conducted in accordance with applicable local rules as set down by the competent authorities of the relevant jurisdiction. For example, individual Member States may allow marketing of the ILP to retail investors within their territories and in this regard may impose stricter requirements on the AIF or AIFM than those required where marketing to “professional investors”.

In addition, a “PRIIP KID” (which is a short pre-contractual document which contains certain prescribed information) must also be prepared where the fund is being marketed to EU retail investors.



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