NEW IRISH FUND STRUCTURE TO FACILITATE U.S. INVESTMENT

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DUBLIN HONG KONG NEW YORK TOKYO

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The Irish Minister for Finance has announced that he has approved the development of legislative proposals for a new corporate structure for the Irish funds industry (the “SICAV”). This new SICAV structure will sit alongside the existing public limited company (“PLC”) structure.

One of the main advantages of the SICAV is that it will provide for a corporate entity that can elect its classification under the U.S. “check-the-box” taxation rules. If the SICAV elects to “check-the box” to be treated as a partnership for US tax purposes, it will avoid certain adverse tax consequences for U.S. taxable investors which arise if the structure is deemed to be a ‘passive foreign investment company’ (PFIC) for US federal income tax purposes.

In addition, the SICAV structure will remove the need for compliance with certain requirements under Irish company law resulting in reduced administrative burden and costs. Irish funds requiring a corporate structure have traditionally been created as PLCs and are obliged to comply with many of the rules applicable to other (i.e. non-fund type) public companies.

The Irish Funds Industry Association believes that managers will benefit from the creation of a structure which is designed specifically for investment funds. Ken Owens, Chairperson of the IFIA, said: “*This is excellent news and something the IFIA and the Department of Finance have been working on together for some time….This new structure will make Ireland even more attractive to managers all over the globe, but especially in the US*.”
It is anticipated that the proposed legislation is will be enacted towards the end of 2012/ beginning of 2013.

The new SICAV structure will complement the current fund structures available in Ireland. These structures (namely, the existing PLC structure, the unit trust, the common contractual fund and the investment limited partnership) will continue to be available to promoters who wish to use them.

For existing PLC structures, there will be an option to convert to the new SICAV structure.

Latest figures show that Ireland's fund industry is continuing to strengthen. The annual statistical report, Trends in the UCITS Market, from the European Fund and Asset Management Association (Efama) revealed that Ireland continues to be the fastest growing

UCITS domicile in the world and is rapidly outpacing all other domiciles in terms of growth. Over the past 11 years the net assets of Irish UCITS have grown more than 500 per cent and Ireland's UCITS market share has increased to 14.5 per cent from 11.5 per cent at the beginning of 2011, according to Efama.

Ireland attracted nearly twice as much as all the other jurisdictions put together during 2011. In the fourth quarter alone, Ireland attracted five times more new monies than all others collectively (€26 billion).

This new SICAV development reflects the Irish Government's commitment to ensure that Ireland remains a leading domicile for investment funds.

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