



5 July 2022

Update to the CBI Pre-Submission Process for QIAIFs

In a development which will be welcomed by many in the funds industry in Ireland, the Central Bank of Ireland (“CBI”) has provided updated [guidance](#) with respect to the pre-submission process for certain categories of qualifying investor alternative investment funds (“QIAIFs”).

QIAIFs and the Fast Track Process

QIAIFs have been a hugely successful feature of the Irish funds landscape in recent years. Since 2007 QIAIFs have typically been able to avail of the Central Bank’s 24-hour approval process for QIAIFs (the “**Fast Track Process**”). As interest in alternative asset classes have grown, greater numbers of private market asset managers have sought to utilise the Irish QIAIF to house private equity, venture capital, real estate, loan origination and private debt investment strategies, amongst others. The success of the QIAIF regulatory regime is demonstrated by the fact that QIAIFs now make up nearly 40%¹ of all funds currently established in Ireland.

Introduction of pre-submission process

In 2020, the CBI identified certain categories of QIAIFs which would no longer be capable of availing of the Fast Track Process and would be required to make a pre-submission to the CBI before seeking authorisation of the relevant QIAIF, explaining that the need to ensure the integrity of the QIAIF authorisation regime was considered crucial to its continued operation and in its communication to the funds industry.

The categories of QIAIFs which were identified by the CBI as falling outside of the scope of the Fast Track Process at that juncture were:

Key Points to Note:

- Pre-submissions no longer required for loan origination, life settlement or non-Irish real estate QIAIFs or QIAIFs investing less than 10% of its net asset value in cash-settled Bitcoin futures traded on the Chicago Mercantile Exchange (subject to certain conditions);
- Pre-submissions still required for QIAIFs seeking to invest in Irish real estate or in crypto assets;
- Central Bank of Ireland quality assurance testing will continue with further developments possible.

¹ Irish Funds statistics April, 2022 - <https://www.irishfunds.ie/stats/pdf>

- ▣ QIAIFs which propose to have high levels of leverage;
- ▣ Real estates / property QIAIFs;
- ▣ Loan Origination QIAIFs; and
- ▣ Life Settlement QIAIFs.

Changes to the pre-submission process

On 1 July 2022, the Central Bank updated its [website](#) that only funds investing in Irish real estate or crypto assets as per the CBI's [AIFMD Q&A ID1145](#) are required to use the pre-submission process. The revised guidance confirms that pre-submissions will no longer be required for the following types of QIAIFs:

- ▣ Loan origination QIAIFs;
- ▣ Real estate / property QIAIFs which are not investing in Irish real estate; and
- ▣ Life settlement QIAIFs.

As a result, these categories of QIAIFs are now eligible for the Fast Track Process.

Pre-submissions for Irish real estate QIAIFs and crypto asset QIAIFs

Real estate QIAIFs investing in Irish real estate will still be required to undergo the CBI's pre-submission process and the CBI has set out on its [website](#) the information required in respect of these applications.

In the case of QIAIFs seeking to invest in crypto-assets, the CBI has advised that a pre-submission must, at a minimum, contain the following information:

1. pursuant to the CBI's [AIFMD Q&A ID1145](#), information in relation to how the crypto-assets are capable of being appropriately risk managed, including liquidity risk; credit risk; market risk; operational risk (including fraud and cyber risks); money laundering / terrorist financing risk; and legal and reputation risks; and
2. in the case of direct investment in crypto-assets, the submission should include details from the proposed depositary demonstrating how it is satisfied that it can provide for the safe-keeping of the assets of the QIAIF in accordance with the conditions set down in the European Union (Alternative Investment Fund Managers) Regulations 2013, as amended.

QIAIF investments in cash-settled Bitcoin futures

The CBI has also advised that where a QIAIF intends to invest no more than 10% of its net asset value in cash-settled Bitcoin futures traded on the Chicago Mercantile Exchange, no pre-submission is required, provided that:

- ▣ the cover letter accompanying the QIAIF application refers to the inclusion of crypto-assets exposure; and

- ▣ in the case of post-authorisation amendments, shareholder approval has been obtained for the revision to the QIAIFs investment strategy to introduce exposure to crypto-assets.

It is important to note that the CBI has reserved the right to request additional information it considers necessary in the course of assessing a pre-submission, including certain confirmations from the AIFM or the board of the QIAIF.

Quality assurance

QIAIF applications may still be subject to periodic quality assurance reviews by the CBI and the CBI has indicated to industry that further changes to the QIAIF authorisation process may be forthcoming in time.

Conclusion

The updates to the pre-submission process for QIAIFs will be welcomed by many and reflects positively on the manner in which industry has engaged with the CBI on applications since the regime was introduced. Promoters seeking to establish QIAIFs in Ireland for asset classes which are no longer subject to the pre-submission process can expect the path to regulatory authorisation to be more straightforward.

For further information on any of the issues discussed in this publication, please contact the authors or your usual contact in [Dillon Eustace](#).

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