



## Ireland, the leading European hedge fund domicile, overtakes key offshore centres

The latest hedge fund industry statistics show that Ireland has now both overtaken key offshore jurisdictions such as Bermuda and the British Virgin Islands as a choice of domicile for hedge funds and further strengthened its position as the leading European hedge fund domicile.

Ireland's overall market share of this global industry doubled in the year to the end of the third quarter of 2010 and 63% of European hedge funds are now based here according to the latest information from Hedge Fund Research (HFR).

The Irish Qualifying Investor Fund, or "QIF", which is the structure of choice for managers establishing hedge funds in Ireland, has proven increasingly popular as it constitutes an extremely versatile, tax efficient and regulated European fund product which can be established in only 24 hours.

The Central Bank, as regulator of investment funds in Ireland, has continued to revise its regulations in recent years. Over the course of the past year in particular, this has resulted in the increased attractiveness of the QIF and has ensured that key conditions are similar to those which investors and managers are familiar with based on products available from offshore centres.

For example, recent updates include: (i) reducing the minimum investment amount to Euro 100,000; (ii) allowing managers of sub-funds to apply their own branding independent to that of the fund's platform sponsor; (iii) permitting the establishment of QIFs in 24 hours; (iv) permitting funds to charge fees and expenses to capital, provided certain requirements are met; and (v) providing that extensions to offering periods only need to be notified to the Central Bank on an annual basis.

## Key Factors

A key factor in the enormous growth recently recorded by QIFs is that the Irish regulatory regime is already aligned with many of the requirements of the Alternative Investment Fund Management Directive (the "AIFM Directive"), which was recently finalised by the European Commission

This Directive provides for a harmonised framework that will introduce the opportunity to passport Irish QIFs throughout Europe from 2013. As an on-shore, European, fully regulated product, the QIF automatically meets the material requirements of the AIFM Directive.

Other factors behind the growing popularity of Ireland as a domicile for globally marketed hedge funds include the fact that 42% of all hedge funds are already administered in Ireland and Irish domiciled funds may take advantage of Ireland's global network of over 60 tax treaties.

In order to cater for the increased investor demand for more regulated products, new company law enhancements contained in the Companies (Miscellaneous Provisions) Act 2009 introduced a straightforward procedure to re-domicile offshore corporate funds to Ireland. Under this regime, a fund can migrate directly to Ireland retaining its corporate identity, track record (provided no significant change to investment policy or fee structure occurs) and existing contractual arrangements.

## Re-Domiciliation

The new regime ensures re-domiciliation may now be approved by the migrating fund only and a streamlined process of document registration has been introduced, resulting in a new single-filing registration process at the Irish Companies Registration Office (CRO).

The new regime has many advantages, including the following: -

- it introduces a legal framework to enhance the efficiency of the process to re-domicile unregulated funds to Ireland;
- it provides for the continuation of foreign investment companies in Ireland and allowing the existing corporate identity of the migrating company to be retained;
- there is no tax inefficient transfer of assets between funds; and
- the fund retains its existing contractual arrangements, its track record and its listing history.

This new procedure became effective from September 2010 for corporate entities seeking to redomicile from each of Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey, the Isle of Man and Jersey and the first such redomiciliations pursuant to this legislation have now been effected. Separately the Central Bank has also permitted the redomiciliation of Unit Trusts from offshore jurisdictions to Ireland in accordance with common law principles.

In the wake of this increased interest in domiciling investment funds in Ireland the assets of Irish domiciled funds reached an all-time high of €906 billion as of October 2010 – significantly higher than the €808 billion figure recorded at the peak of the market in 2007.

## Conclusion

Ireland's role as a domicile for hedge funds and the growth in popularity of the QIF as the European hedge fund structure of choice seem set to continue to grow due to increasing investor demand for regulated products and the implementation of the AIFM Directive. The first redomiciliations of offshore products to Ireland have now been effected further to the recently adopted Irish legislation permitting this and this trend is likely to accelerate over the coming years.

*The contents of this briefing note are to assist access to information and do not constitute legal or other advice. Readers should obtain their own legal and other advice as may be required.*

© 2010 Mason Hayes+Curran

## About Mason Hayes+Curran

Mason Hayes+Curran is a full service, business law firm with 51 partners and over 270 employees specialising in Irish law. With offices in Dublin, London and New York the firm delivers sophisticated legal services to an extensive Irish and international client base. Our investment funds lawyers have a wealth of experience in the investment funds industry and have been involved in the development of policy and regulation in Ireland. We advise on the establishment and ongoing operation of Irish domiciled investment funds and our dedicated team of investment funds lawyers can also draw upon the expertise of specialist lawyers from our tax, corporate, banking, litigation, intellectual property, data protection, regulatory and compliance practices whenever required. For further information with regard to the topics covered in this Update, or Irish investment funds law generally, please see the contacts listed below:

### Contacts: Investment Funds and Financial Regulation:



#### Partner, Head of Investment Funds

DDI: +3531 614 5080

Email: [fbreathnach@mhc.ie](mailto:fbreathnach@mhc.ie)

#### Mark Browne



#### Partner, Investment Funds

DDI: +3531 614 5866

Email: [mbrowne@mhc.ie](mailto:mbrowne@mhc.ie)