

Positive Developments Relating to the CBI Authorisation Process for QIAIFs

Background

Irish Qualifying Investor Alternative Investment Funds (“QIAIFs”) generally benefit from a 24 hour approval process by the Central Bank of Ireland (“CBI”). This means that if an application (which includes the relevant certifications by the appointed AIFM and depositary) to authorise a QIAIF is submitted to the CBI by 5pm on a given business day, the QIAIF will be authorised by the CBI on the next business day.

In June 2020, the CBI decided that certain QIAIFs that contain “unusual features” will require a pre-submission. The CBI pre-submission process applied to certain asset classes, namely:

- QIAIFs with high levels of leverage
- Loan origination QIAIFs
- Property QIAIFs
- Life settlement QIAIFs.

Where a pre-submission is required, the CBI typically requested additional information including:

- A model portfolio
- A rationale for the asset type or structure
- Details of the due diligence conducted on the assets and service providers
- Information on the liquidity characteristics of the QIAIF to ensure the liquidity profile is aligned with the asset type.

July 2022 Update

In July 2022, the CBI removed the pre-submission requirement for several types of QIAIFs, including loan origination QIAIFs, non-Irish property QIAIFs, QIAIFs with high leverage and life settlement QIAIFs.

The CBI has changed the pre-submission process so that it only applies to:

- QIAIFs proposing to invest in Irish property assets
- QIAIFs proposing to invest in crypto-assets as per the CBI’s AIFMD Q&A ID1145. ID1145 clarifies the CBI’s position that it is highly unlikely to approve a RIAIF proposing exposure to crypto-assets as retail investors would not be able to appropriately assess the risks of making an investment in a fund which has such exposures. In the case of a QIAIF, a submission to the CBI will be required outlining how the risks of such exposures could be effectively managed by the AIFM.

The pre-submission for QIAIFs intending to invest in Irish property assets must contain the following information:

- Copies of the prospectus/supplement(s)
- A completed model portfolio template
- Details of the maximum Loan to Value/leverage limits that will apply including any debt at any special purpose vehicle/intermediate investment vehicle level
- Details of the liquidity status of the QIAIF and the redemption provisions that will be in place
- An indication of the expected target market of the QIAIF.

The pre-submission for QIAIFs investing in crypto-assets must contain the following information (non-exhaustive list):

- Information concerning how the crypto-assets are being appropriately risk managed
- Details of the proposed depositary demonstrating how it can provide for the safe keeping of the assets of the QIAIF. This relates to QIAIFs with direct investment in crypto assets.

It should be noted that the pre-submission requirements will not apply to QIAIFs who propose to allocate no more than 10% of NAV to bitcoin futures traded on the Chicago Mercantile Exchange. This follows the CBI's approval of two funds with this 10% exposure in Q1 2022. The CBI pre-submission update on crypto assets comes around the same time as the EU presidency and the European Parliament reached a provisional agreement on the markets in crypto-assets regulation ("MiCA").

Conclusion

Industry experts expect this positive development to increase investor interest in Ireland as an alternative fund domicile. The previous pre-submission process typically took several months to complete and did not involve a prescribed timeframe which created uncertainty. It also follows recent moves to increase the attractiveness of the Irish Investment Limited Partnership ("ILP") to alternative fund managers such as allowing managers to set up and operate multiple sub-funds in different assets under one umbrella ILP.

KB Associates' Services

KB Associates provides a range of services to investment funds including:

- The provision of UCITS management company/AIFM services.
- The provision of designated persons to perform UCITS business plan/AIFMD programme of activity functions.
- The provision of operational and compliance services to both UCITS and AIFMD compliant structures.

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