

Private Funds Options in Ireland.

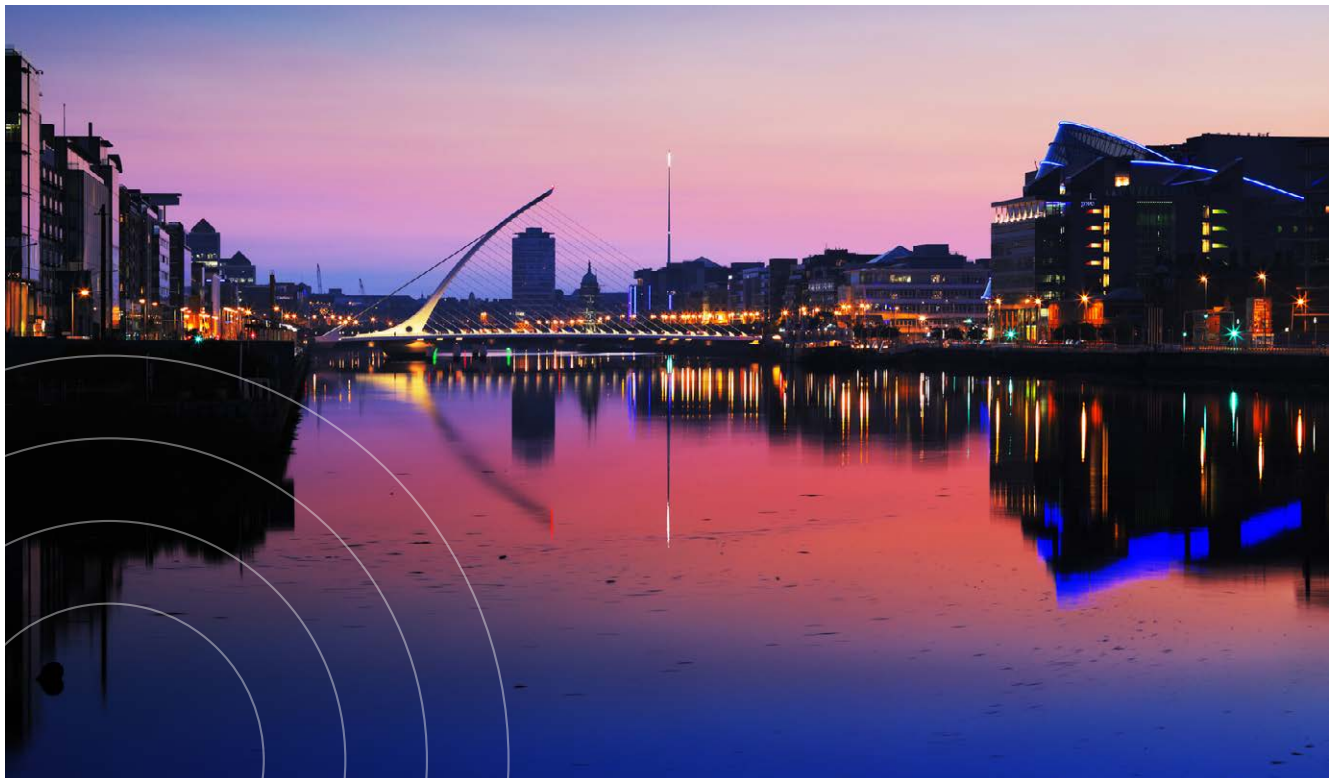
Investment
Management Group

2025



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Foreword

Our Investment Management Group

Our Investment Management Group has considerable expertise in acting for sponsors and private fund managers establishing all types of private funds in Ireland including private credit, real estate, infrastructure and private equity vehicles. Our private fund lawyers advise private fund sponsors and financial institutions across the private fund life-cycle, from fund formation and negotiation of side letters with seed investors to ongoing regulatory advice and transaction structuring and acting for investors in private funds.

Furthermore, our wider private equity, private credit and infrastructure groups have significant experience in advising on all of the corporate and debt financial aspects of acquisitions, investments and disposals and financing arrangements (both acting for funds as borrowers and lenders).

Acting for private fund investors and LPs/side letter negotiations

Our experience includes advising on all private fund structuring and AIFMD-related issues including negotiating investor side letters and other related commercial arrangements with private fund investors. In addition to acting for sponsors, we also regularly act for limited partners in private funds and cornerstone investors and so we have significant familiarity with the nature of the terms that those investors will expect to see in private fund documentation.

Section 1

Introduction

There has been a general increase of late of investors taking interests in private funds, particularly private credit, private equity and infrastructure funds. Ireland also continues to see significant growth in real estate investment funds, both for Irish real estate and also pan-European real estate strategies.

This should also be viewed in the context of an EU trend of retailisation of private fund capital raising, demonstrated by the introduction of the Savings and Investment Union, which is the EU's public policy initiative to create a single market for capital across the EU. This has the development of private credit as its key objective, highlighted by the implementation of ELTIF 2.0 and the harmonisation of loan origination rules under AIFMD II (Directive 2024/927/EU) ("**AIFMD II**").

In its Funds Sector 2030 report, the Irish Government noted the growth in the private assets sector and increased investor demand for access to private assets, recognising the opportunity this presents for Ireland. Furthermore, the Central Bank of Ireland ("**CBI**"), as the regulator of alternative investment funds and alternative investment fund managers in Ireland, has recently overhauled its AIF Rulebook in order to make Ireland as attractive as possible to private fund sponsors wishing to establish their EU private funds. This demonstrates that the Irish financial services industry has adapted and continues to evolve in order to meet the developing needs and interests of sponsors and investors in the private funds sector.

To this end, Ireland has developed its rules to become a jurisdiction of choice to respond to this increased interest in private funds. Ireland has a proven track record as a leading EU AIF domicile and a sophisticated ecosystem to support international sponsors. Ireland is also the only English-speaking EU domicile with a common law legal system. Furthermore, following recent reforms to its Investment Limited Partnership ("**ILP**") structure. Ireland now offers the full suite of preferred legal structures for private equity, private credit/debt, real estate, infrastructure and other alternative strategies.



The Irish financial services industry has adapted and continues to evolve





Section 2

Why Ireland for Private Funds?

There are a number of reasons which make Ireland such an attractive option for the establishment and operation of investment funds, particularly private funds. Ireland is currently the second largest and fastest growing major domicile for funds and as of the end of April 2025 accounts for 20.1% of all European fund assets. On a global scale, Ireland is currently the third largest global centre for investment funds and is home to a total of 6% of world-wide investment fund assets.

Until this point, only Irish regulated funds, which were specifically classed as a “Loan Origination QIAIF” (“**L-QIAIF**”), could engage in loan-origination. However, with the implementation of AIFMD II into domestic law by 16 April 2026, this will lead to welcome reform in this area, resulting in private credit funds becoming even more attractive to both sponsors and investors and these developments will strengthen Ireland’s position as a domicile of choice for global private credit funds.

From a taxation perspective, Ireland also boasts significant advantages, as it is an internationally recognised, open and tax efficient jurisdiction and currently has tax treaties in effect with 75 countries with additional treaties signed and in the process of being ratified. In terms of accessibility and efficiency, there is an ease to doing business in Ireland. Further, administrative/technical requirements (e.g. documentation notarisation requirements etc) tend to be much less burdensome in Ireland compared to other jurisdictions, resulting in enhanced operational efficiency for fund managers.



On a global scale, Ireland is currently the third largest global centre for investment funds

On a more general note, Ireland is a prime location for investment funds from the point of view of connectivity, as there are currently 190 direct flights to Dublin, making Dublin easily accessible and minimising the time spent by relevant parties travelling to board meetings. Ireland also has a highly educated, motivated and English speaking workforce. Currently there are over 8,800 financial services companies operating from Ireland, including 17 of the top 20 global institutions. Ireland's financial services sector continues to rapidly expand, with over 103,500 people currently employed in the Irish financial sector.



Currently there are over 8,800 financial services companies operating from Ireland



Section 3

Regulatory Structures

The CBI regulates two types of alternative investment fund (“AIF”) structures, namely Qualifying Investor Alternative Investment Funds (“QIAIFs”) and Retail Investor AIFs (“RIAIFs”), both of which were introduced in connection with the implementation of the Alternative Investment Fund Managers Directive 2011/61 (“AIFMD”) in Ireland. Since the AIFMD marketing passport, which allows an Irish-authorised fund to be marketed throughout the EEA, only applies to funds marketed to professional investors and Irish domiciled funds are primarily used for international distribution, the QIAIF is by far the more commonly used of the two types of AIF structures. Consequently, this Briefing focuses solely on the QIAIF regime.

QIAIF is regulated by CBI

The QIAIF (whether established as an ILP or ICAV – both of which are discussed below) will be an AIFMD-compliant vehicle and therefore has the benefit of the AIFMD passport if the sponsor wishes to market the QIAIF to EU investors. This benefit streamlines EU cross border distribution and reduces operational costs. The QIAIF is regulated by CBI (which can be attractive to certain sponsors and institutional investors). However, the approval process is a 24 hour process. Provided certain conditions are met, an application for authorisation as a QIAIF that is submitted before 5pm on any business day will be authorised on the next business day. Consequently, the CBI approval process adds nothing to the timeline for launch.



QIAIF is regulated by the CBI, the approval process is a 24 hour process



Limited to Qualifying Investors

A condition of the 24 hour approval process referred to above is that a QIAIF may only be available to “Qualifying Investors”, namely investors who are either professional investors or high net worth investors who certify that they are aware of the risks of investing in a fund which is not subject to asset eligibility, diversification or leverage limits. Furthermore, there is a minimum subscription or commitment per investor of €100,000.

No risk spreading/leverage limits

A further advantage of the QIAIF is that it is not subject to any mandatory risk spreading obligations and therefore can hold a single asset/highly concentrated portfolio. There are also no asset eligibility or leverage limits that apply to a QIAIF (with the exception of loan origination funds, which, as outlined below are now subject to a new pan-European regime under AIFMD II).

Umbrella status

In terms of status, all QIAIFs (regardless of the legal vehicle they are established as) can be established as a stand alone entity or an umbrella fund, with segregated liability between sub-funds provided for on a statutory basis.

Re-domiciliation

Finally, it is worth noting that an investment fund which is domiciled in certain offshore jurisdictions can utilise a streamlined conversion process to change its country of domicile to Ireland and operate as a QIAIF in accordance with the applicable Irish and CBI regulations.



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Section 4

Legal Vehicles available in Ireland

Investment Limited Partnership

In 2021, with the introduction of the Investment Limited Partnership Amendment Act 2021 (the “**ILP Act**”) Ireland overhauled its ILP structure. As part of that overhaul, Ireland benchmarked its approach against limited partnership regimes internationally, which resulted in the new ILP reflecting ‘best in class’ elements found in ILP peer regimes globally. As a result, there is nothing in the Limited Partnership (“**LP**”) structure in traditional LP jurisdictions, such as Cayman, Delaware or Luxembourg, that cannot be replicated in an ILP, making the ILP an attractive option from a regulatory perspective.

The ILP regime provides for a number of ‘safe harbors’ for Limited Partners (“**LPs**”), thereby allowing them to participate in advisory committees, vote on changes to the limited partnership agreement and engage in other related activities without losing their limited liability status. An ILP is constituted by an Irish law governed Limited Partnership Agreement (“**LPA**”), which is entered into by one or more General Partners (“**GPs**”) on the one hand, and any number of LPs on the other hand.

In terms of regulation, ILPs are typically regulated by the CBI as QIAIFs and so they are both established and authorised by the CBI at the same time, under the CBI’s 24-hour fund authorisation process (see further above). This efficient and well established process makes the ILP an attractive option for potential sponsors from an operational perspective. A further benefit of the ILP is that an ILP managed by an EEA-authorised AIFM can be marketed throughout the EEA with an AIFMD marketing passport.



Ireland benchmarked its approach against limited partnership regimes internationally



In terms of General Partner eligibility, there is no requirement for a GP to be authorised by the CBI, provided it appoints an AIFM, with the only GP regulatory touchpoint being that the GP's directors are subject to the CBI's fitness and probity regime as pre-approved controlled functions. A body corporate may act as GP and typically, the GP will be a newly incorporated Irish private limited company. However, it is possible for a non-Irish company (e.g., a Delaware company) to act as GP to the ILP and so the GP can be located in the jurisdiction of the private fund sponsor and/or in the jurisdiction of other funds managed by the sponsor.

Similar to most jurisdictions which have partnership structures, an ILP does not have separate legal personality and therefore its assets, liabilities and profits belong jointly to the partners in the proportions agreed in the LPA. The GP is responsible for managing the ILP's business and it has unlimited liability for the ILP's debts and obligations, in the unlikely event there is a shortfall in the ILP's assets to meet those debts. In contrast, an LP has limited liability, provided it does not take part in the management of the business of the ILP. The ILP Act introduced a number of helpful "safe harbour" provisions, which allow an LP to participate on LPACs and portfolio companies, as well as exercise veto rights, without losing its limited liability status.

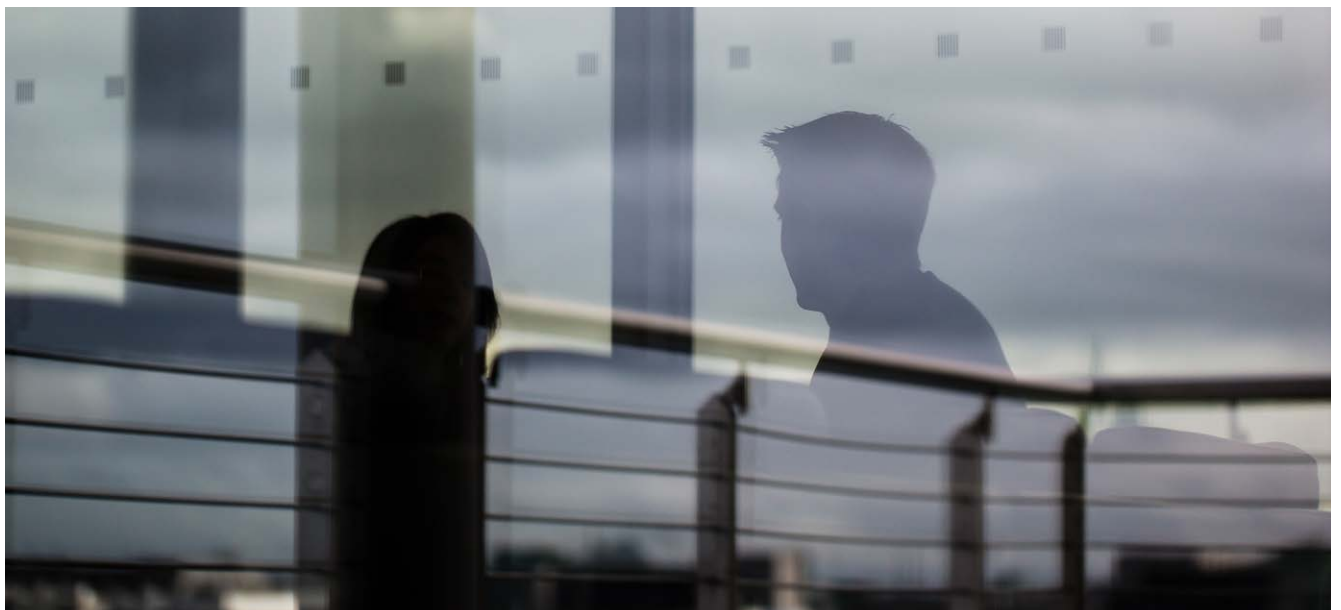
An ILP is not subject to any mandatory risk spreading obligations, meaning it can hold a single asset/highly concentrated portfolio. Furthermore, the Irish legislation underpinning the ILP provides for a statutory basis to novate and/or transfer assets and liabilities on the admission or replacement of a GP, so that all rights or property of the ILP vest in the incoming GP.

ICAV

The ICAV has become the vehicle of choice for investment fund vehicles established in Ireland. It is worth noting at the outset that perhaps the most significant advantage of the ICAV is that it has its own legislative regime, the Irish Collective Asset Management Vehicles Act 2015. This means that the applicable legislative regime is specifically tailored to and indeed designed for the ICAV, meaning that, unlike the traditional investment company, the ICAV is not subject to those aspects of company law which are irrelevant to collective investment schemes. This approach results in reduced costs and administrative burdens placed upon the ICAV. The ICAV is now the vehicle of choice for credit managers particularly focused on US direct lending strategies, due to the provisions of the Ireland/US Double Tax Treaty.

The ICAV vehicle is suitable for both AIFs and UCITS. Furthermore, the ICAV can be used for closed-ended or open-ended collective investment schemes. It is also possible for certain foreign corporate funds to convert or re-domicile to an ICAV by way of continuation, allowing the ICAV to retain its corporate identity, track record and performance data existing on conversion.

A further advantage of the ICAV is that ICAVs are not subject to risk-spreading or diversification requirements. From a taxation perspective, ICAVs are attractive as they are entitled to elect (i.e., 'check the box') to be treated as a flow-through or partnership for US tax purposes or as blockers/per se corporations.



ICAVs are registered in Ireland and managed and controlled by their board of directors, which under CBI rules must have a minimum of two directors, each of whom is Irish resident and one of whom must be independent.

From a regulatory perspective, ICAVs are authorised and supervised by the CBI. Establishing an ICAV involves a two-step process, where the ICAV must first be registered with the CBI and then authorised as a QIAIF by the CBI. The CBI is very experienced in the authorisation and supervision of private fund structures generally.

Unit Trusts/CCFs

A QIAIF may also be established as a Unit Trust or a Common Contractual Fund ("CCF"). CCFs are often used for pension investors. However, as mentioned above, the most common form of Irish AIFs are ICAVs and ILPs.



A further advantage of the ICAV is that ICAVs are not subject to risk-spreading or diversification requirements

Section 5

Recent Developments in the Private Funds Sector

Loan Origination under AIFMD

Loan Origination in Ireland

One of the integral changes to be introduced under AIFMD II will be the facilitation of AIFs originating loans on a pan-European basis. In recognition of the fact that investment funds providing loans can be a source of alternative financing for the real economy, under AIFMD II, AIFs will now have the ability to originate loans in all EEA member States on an EU harmonised basis, marking a notable change in the AIF regime. The CBI introduced a loan origination regime in 2014, making it the first EU regulator to introduce such a regime.

The CBI's loan origination regime applied certain restrictions, particularly around leverage limits, as well as risk retention requirements, some of which were sometimes considered unattractive by sponsors. However, with the introduction of AIFMD II and a pan-European loan origination regime, the CBI is removing its existing rules on loan origination and instead, loan origination funds in Ireland will simply be subject to the requirements set out in AIFMD II, thereby putting Ireland on the same footing as all other EU Member States.



With the introduction of AIFMD II, the CBI will now permit funds to lend provided the fund meets the requirements applicable to loan origination set out in AIFMD II

Section 6

ELTIFs

ELTIFs can be described as EU alternative investment funds which invest in long-term investments, for example, social and transport infrastructure projects, real estates and SMEs. The initial ELTIF framework was introduced in 2015 through Regulation (EU) 2015/760 (the “ELTIF Regulation”). The introduction of the ELTIF regime can be viewed as recognition of the drive to grant retail investors access to private assets. The ELTIF Regulation introduced cohesive rules relating to the authorisation, operating conditions, marketing and investment policies of ELTIFs. Despite the promising nature of ELTIFs and the positive aspects of the ELTIF regime, uptake was initially slow. The ELTIF regime was subject to criticism for being overly restrictive in terms of what amounted to eligible assets and investments and the barriers that investors were confronted with when accessing ELTIFs.

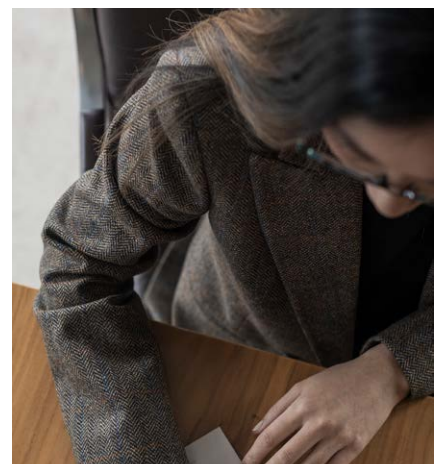
ELTIF 2.0

In response to the limitations of the ELTIF Regulation, Regulation (EU) 2023/606 (“ELTIF 2.0”) was introduced and became effective on 10 January 2024. ELTIF 2.0 expanded the scope of eligible assets and investments which an ELTIF can invest in and introduced the concept of “real assets” as a specific “eligible investment.” The CBI introduced a new ELTIF regime which mirrored the ELTIF Regulation, with no further requirements or gold-plating applying to the authorisation of Irish ELTIFs. See further our Briefing on ELTIF 2.0 [here](https://www.mccannfitzgerald.com/uploads/McCann_FitzGerald_LL_P_European_Long-Term_Investment_Funds_EL_TIF.pdf).

https://www.mccannfitzgerald.com/uploads/McCann_FitzGerald_LL_P_European_Long-Term_Investment_Funds_EL_TIF.pdf



The new ELTIF framework was introduced in January 2024



Section 7

Tax

All Irish investment funds authorised by the Central Bank which are available to the public are generally exempt from tax on their income and gains irrespective of where their investors are resident. No Irish stamp, capital or other duties apply on the issue, transfer or redemption of shares/units in a fund.

An exit tax regime applies to funds set up as an ICAV, investment company or a unit trust. Under this regime, no withholding tax applies on payments to non-Irish resident investors and certain Irish resident investors once certain declarations have been put in place or the fund has received approval in respect of 'equivalent measures'*.

Funds set up as an ILP or a CCF are treated as tax transparent entities and as such the income and gains of an ILP or a CCF, as the case may be, are treated as if they directly accrue to the investors from the underlying assets. No withholding tax applies on any distributions made by an ILP or a CCF. There is no Irish tax for investors that are not within the scope of Irish tax on account of investing through a CCF or an ILP. Note, however, that individuals are not permitted to invest in CCFs.

VAT

Certain services supplied to a fund are VAT exempt activities. The principal exemptions relate to discretionary investment management services, administration services (including corporate administration) and marketing services. Custodial services are also generally exempt from VAT. Other services provided to a fund may create a VAT cost. VAT recovery is, however, available to the extent that the fund has either non-EU assets or non-EU investors.

Treaty Access

Ireland has an extensive network of double taxation agreements ("DTAs"). Access by a fund to these treaties can, however, be restricted because of the tax exempt nature of Irish funds. Treaty benefits have been obtained from a number of Ireland's treaty partners, and each jurisdiction should be reviewed on a case by case basis to determine whether DTA access is possible.

*Special rules apply to Irish real estate funds.



All Irish domiciled funds are either exempt from Irish tax on their income and gains or else are tax transparent



Tax Residence

It is important to ensure that an Irish-authorised fund is resident in Ireland for the purposes of Irish taxation.

A fund established as an ICAV or investment company will be regarded as tax resident in Ireland if its central management and control is exercised in Ireland.

An Irish unit trust is generally regarded as tax resident in Ireland on the basis that the trustee is resident in Ireland.

An Irish ILP is treated in Ireland, as well as in many other jurisdictions, as being tax transparent, in which case it is the residence of the individual limited partners which will be relevant in determining tax status.

An Irish CCF and an Irish ILP is treated in Ireland (as well as in many other jurisdictions) as being tax-transparent, and, therefore, does not have a 'residence' for the purposes of Irish tax.



Ireland has an extensive network of double taxation agreements.



Why McCann FitzGerald LLP?

McCann FitzGerald LLP is made up of over 640 people, including c. 480 lawyers and professional staff and is one of Ireland's premier law firms. McCann FitzGerald LLP is regularly recognised as a market leader and its clients include a variety of international organisations and emerging Irish companies.

Our Investment Management Group, McCann FitzGerald LLP offers a one-stop shop to Irish authorised funds, their promoters, directors, managers, administrators and custodians, for legal, regulatory, stock exchange listing, tax and business advisory expertise. McCann FitzGerald LLP also provides a full investment funds listing service in addition to a dedicated investment funds company secretarial service.

The Investment Management Group which consists of 10 partners, one consultant, two Of Counsels, and a large team of associates has extensive experience in advising clients on all aspects of investment management, with particular specialist expertise in areas including, alternative investment funds (both retail and qualified), private funds, closed-ended funds, private equity funds, credit funds, venture capital, infrastructure funds, hedge funds and real estate funds.

The Investment Management Group is at the forefront of developments in the Irish and EU investment management industry, with its team members having chaired numerous industry groups in relation to the implementation of the new ILP regime and the ELTIF 2.0 regime. Other team members are members of a variety of industry regulatory working groups. The Investment Management Group keeps pace with the rapid evolution of the global investment management industry.

Market Commentary

"Tier 1 for Investment Funds."

IFLR1000 2025

"The team that we work with at McCann FitzGerald are very knowledgeable and are willing to work to tight timelines to ensure we can meet client expectations. They are also very responsive on all queries and make themselves available for calls, oftentimes at short notice."

IFLR1000 2025 (Investment Funds) Tier 1

"McCann FitzGerald LLP has an extensive background in UCITS, ETFs, alternative investment funds, hedge funds, private equity funds and real estate funds, among other areas. It has a team that covers the range of fund structuring, fund establishments, and regulatory authorisation and compliance. It also brings its leading derivatives expertise to the funds environment."

Legal 500, 2025 (Investment Funds) Tier 1

"The team has unrivalled knowledge of all facets of fund establishment, legislation, governance and management. Combined with practical advice, this provides my team with the ability to manage our investments to the highest standards."

Legal 500, 2025 (Investment Funds) Tier 1

"Highly responsive and practical legal advice provided in a timely manner. Transparency on costs."

Legal 500, 2025 (Investment Funds) Tier 1

"Strong depth of quality across the team and all lawyers are very approachable and reactive to client needs."

Legal 500, 2025 (Investment Funds) Tier 1

"McCann FitzGerald has a prominent practice advising on a mix of funds matters. The law firm advises payment services or peer-to-peer lending companies on the process to become authorised by the Irish Central Bank and on commercial matters relating to their ongoing operations. Lawyers in the team advise on the establishment of fund management companies and handle related compliance mandates. McCann FitzGerald also assists with all issues relating to the launch of sub-funds on QIAIF or UCITS platforms, including the appointment of managers and other funds service providers."

Chambers Global 2025 (Investment Funds)

"The McCann FitzGerald team offers excellent client relationship management and an understanding of its clients and their needs, in addition to a very pragmatic approach."

Chambers Global 2025 (Investment Funds)

"The team is made up of deeply trusted advisers on all matters related to investment funds regulation."

Chambers Global 2025 (Investment Funds)

Connect with our team of experts

For more information, please feel free to contact one of the members of our team below.



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Such advice should always be taken before acting on any of the matters discussed.

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