

ASSET MANAGEMENT AND INVESTMENT FUNDS

Irish Investment Limited Partnerships set for reform as Government Publishes new Amendment Bill

25 September 2020

In June 2019, the then Irish government introduced a bill to amend and update the existing legislation governing investment limited partnerships in Ireland.

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Europe Women in Business Law Awards

**Best Firm for Talent Management (2020);
Minority Women Lawyers (2020 & 2019);
Mentoring Programme (2019 & 2018)**
Europe Women in Business Law Awards

**Best National Firm for Women in Business
Law 2019 & 2018**
Europe Women in Business Law Awards

**Ireland M&A Legal Adviser of the Year
2019 & 2018**
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Ireland Law Firm of the Year 2019 & 2018
Who's Who Legal

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**Ireland Client Service Law Firm of the
Year 2018**
Chambers Europe Awards

That bill lapsed on the dissolution of the previous government. Earlier this week, the Minister for Finance announced the publication of the Investment Limited Partnerships (Amendment) Bill 2020 (the "**ILP Bill**") which, once enacted, will modernise the Irish investment limited partnership ("**ILP**") structure and bring it in line with comparable partnership vehicles in other leading jurisdictions.

The [ILP Bill](#) will also make technical amendments to the ICAV Act 2015 ("**ICAV Act**") to enhance the efficiency of the ICAV structure and to align the ICAV Act with certain provisions of the Companies Act 2014. In addition, the ILP Bill extends the beneficial ownership requirements applicable to corporate and unit trust fund structures to ILPs and common contractual funds.

MAIN CHANGES INTRODUCED BY THE ILP BILL

Umbrella ILPs

The ILP Bill introduces the possibility of establishing "umbrella" ILPs that are divided into compartments or "sub-funds" with segregated liability. The umbrella structure is attractive because it allows separate strategies or investor types to be accommodated in different sub-funds of the same umbrella rather than having to establish stand-alone partnerships for each.

Limited Partner Safe Harbours

If a limited partner ("**LP**") takes part in the management of the ILP, the LP loses the benefit of limited liability. The ILP Bill clarifies and broadens the safe harbours which allow LPs to undertake certain actions without being deemed to take part in the management of ILPs (e.g., sitting on advisory committees and approving changes to the limited partnership agreement ("**LPA**").

Amendments to the LPA and Approval by Majority of LPs

The ILP Bill removes the requirement for all LPs to approve an amendment to the LPA. Instead such an amendment will require approval by a majority of the general partners ("**GPs**") and a majority of LPs. The ILP Bill also allows for certain amendments to proceed without LP approval where the depositary certifies that the changes do not prejudice the interests of LPs. In addition, in line with partnership structures in other jurisdictions, the ILP Bill allows for the LPA itself to make specific provision as to what constitutes a "majority of limited partners" (e.g., a majority by value, by number or by class).

Withdrawals/Redemptions by Investors

The ILP Bill streamlines the process for the contribution and withdrawal of capital to and from ILPs and aligns the process

This document contains a general summary of developments and is not a complete or definitive statement of the law. Specific legal advice should be obtained where appropriate.

with that applicable to other Irish fund vehicles and partnership structures in other jurisdictions.

Migration of ILPs

The ILP Bill provides for the migration-in and migration-out of Ireland by ILPs and the process mirrors the provisions of both the Companies Act 2014 and ICAV Act for other types of investment funds.

ICAV Act Amendments

As noted above the ILP Bill will also make technical amendments to the ICAV Act to enhance the efficiency of the ICAV structure and to align the ICAV Act with certain provisions of the Companies Act 2014 including, provisions relating to powers of attorney and intra-group loans and other transactions.

Beneficial Ownership Requirements – ILPs and Common Contractual Funds

The ILP Bill introduces requirements around beneficial ownership to ILPs and common contractual funds (“CCFs”).

These requirements are analogous to those that corporate funds and funds established as unit trusts are already subject to. The ILP Bill will require the GP of an ILP and the management company of a CCF to establish and maintain a register of beneficial ownership of the ILP and to submit that information to the Central Bank for inclusion on the Central Bank’s central register of beneficial ownership of certain financial vehicles. A “beneficial owner” in relation to an ILP and a CCF means: any individual who (a) ultimately is entitled to or controls, whether the entitlement or control is direct or indirect, more than a 25% share of the capital or profits of the partnership/CCF or more than 25% of the voting rights in the partnership/CCF, or (b) otherwise controls the partnership/CCF. The ILP Bill also provides that the Central Bank can verify PPSN information pertaining to beneficial ownership registers it operates by proposing an amendment to the Social Welfare Consolidation Act 2005. For more information on beneficial ownership requirements generally, please see our previous briefing [here](#).

NEXT STEPS

The ILP Bill has commenced the legislative process, having been introduced in the Seanad (the upper house of the Irish Parliament) and passed the second stage on 23 September 2020. The next stage, Committee stage, is scheduled to take place on 29 September 2020. Before entering into law, the ILP Bill will be subject to various stages of review and approval by the Irish parliament, but it is hoped that the legislation will be approved in the coming months.

Separately, the Central Bank is expected to consult on changes to its rulebook for alternative investment funds, particularly for funds that invest in private equity, credit and other private asset investment strategies. These changes will be relevant to managers that are interested in using the ILP structure and we will keep you updated on relevant developments.

If you would like to discuss the foregoing in more detail, please do not hesitate to contact a member of our team.

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