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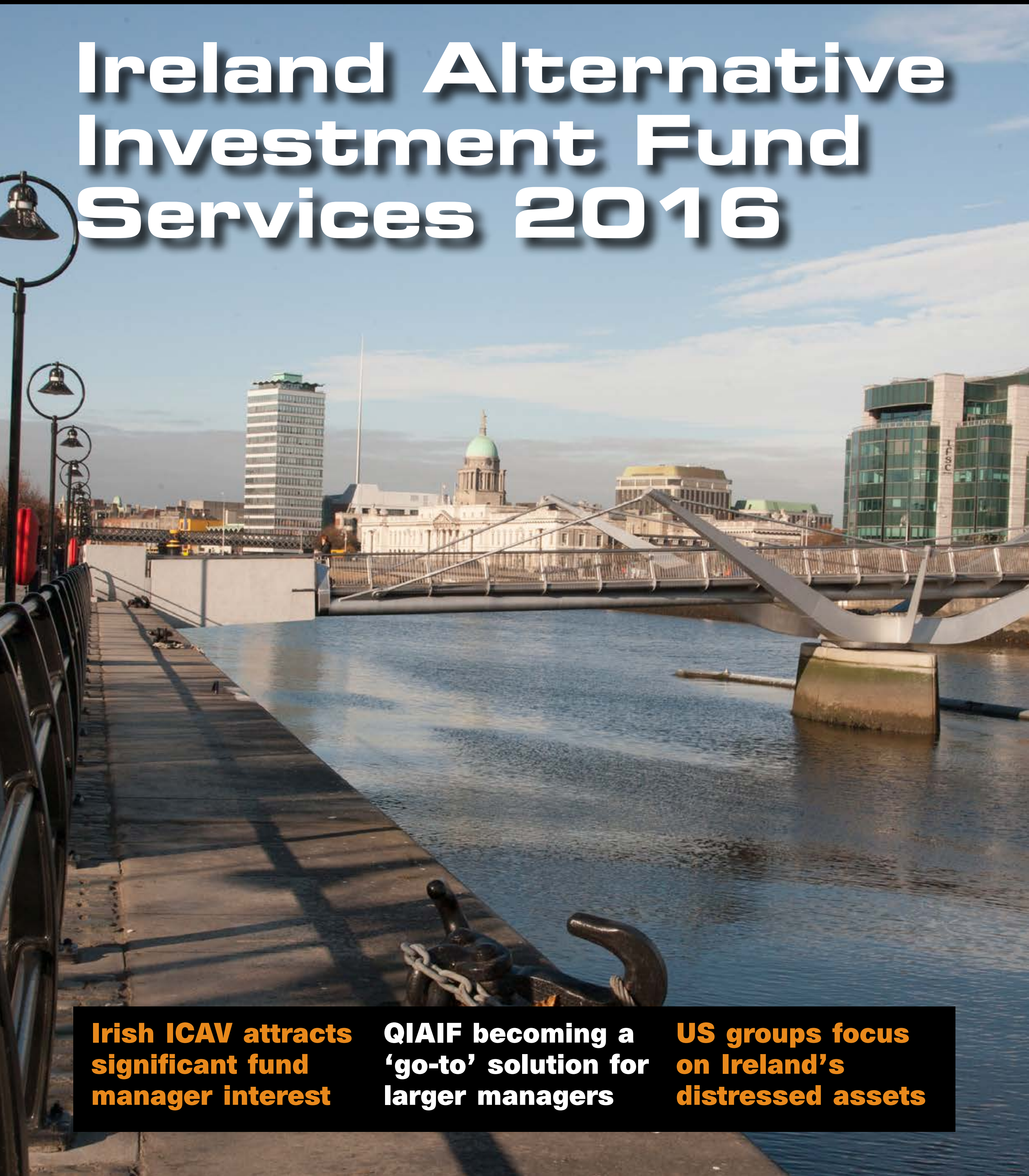
Ireland Alternative Investment Fund Services 2016



Irish ICAV attracts significant fund manager interest

QIAIF becoming a 'go-to' solution for larger managers

US groups focus on Ireland's distressed assets

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Irish ICAV attracts significant fund manager interest

By James Williams

Ireland remains Europe's leading onshore hedge fund jurisdiction by some margin, yet up until a couple of years ago it could not offer fund sponsors a corporate fund structure similar to the SICAV in Luxembourg.

The Irish Government were fully aware of this need to improve Ireland's product competitiveness back in 2011, highlighting the fact in its Strategy for the International Financial Services Industry 2011-2016. The end result was the introduction of the Irish Collective Asset-Management Vehicle or ICAV, a new corporate vehicle that over the last 12 months has already proven to be more successful that was initially anticipated.

"The way we view the structure is as an enhancement of the existing corporate model that we have in Ireland," comments Stephen Carty, Investment Funds Partner, at Maples and Calder (Dublin). "There aren't a significant amount of differences – mostly pertaining to those managers wishing to target US investors – but in other areas it is pretty much a rework of the existing Irish company structure. Within a month or two of the ICAV legislation coming into effect last March, almost every vehicle being established in Ireland was through this new legal structure. At Maples and Calder, we have advised on 25 to 30 per cent of all new ICAVs established in Ireland. Across the board, it has been well received and embraced."

ICAVs can be used for UCITS or AIFs and

can also be used by managers wishing to restructure an Irish plc. Since the ICAV came into effect on 18th March 2015, through the end of December some 129 ICAVs had been authorised by the Central Bank of Ireland. This has helped boost Ireland's funds industry, with assets in the Qualified Investor Alternative Investment Fund, or QIAIF, up 21 per cent through November 2015 over a 12-month period.

Net inflows to QIAIFs were EUR31 billion through November 2015, giving an overall aggregate total of EUR384 billion; this compares to EUR317 billion through November 2014.

Part of the reason for this growth is the ICAV as global fund managers look for an efficient solution to establishing regulated funds in Europe.

"One trend that we've seen over the last couple of years is the move from offshore jurisdictions to onshore Europe and Ireland is very well placed to attract a lot of those funds. The majority of ICAVs have been for new funds with only a small number being conversions from Irish plcs. We expect to see more conversions throughout 2016 and most new fund launches using a corporate structure are likely to use the ICAV," says Kieran Fox, Director of Business Development, Irish Funds, the representative body for the international investment fund community in Ireland.

Donnacha O'Connor, Partner at Dillon Eustace, confirms that there is "a huge amount of interest" in the ICAV coming from outside Europe.

"It has features that make it structurally very adaptable and very marketable inside and outside the EEA. It can benefit from the UCITS or AIFMD marketing passports. It can be established as a QIAIF, which has little or no portfolio regulation. It has the ability to be treated as tax transparent or not from a US federal income tax perspective. It is a corporate fund but is not subject to Irish or European company law," says O'Connor.

In addition to a fast evolving regulated fund ecosystem, Ireland is the fastest growing UCITS domicile, having grown 500 per cent in 11 years and 30 per cent over the last two years according to Irish Funds. This has been achieved thanks to Ireland having a world-class funds infrastructure, with

"Within a month or two of the ICAV legislation coming into effect last March, almost every vehicle being established in Ireland was through this new legal structure. Across the board, it has been well received and embraced."

Stephen Carty, Maples and Calder

some 46 administrators and 18 custodians supporting in excess of 850 promoters, 136 of which are US promoters.

"If one looks at net flows into Irish QIAIFs they have grown even quicker than UCITS, albeit from a smaller base. We don't expect there to be a flood of offshore hedge funds moving onshore to Europe but it is significantly more than a trickle as managers look towards onshore domiciles to establish fund ranges with the mindset of accessing European investors more easily and efficiently," says Fox.

The specific reasons for choosing an ICAV might not all be business critical for major established Irish corporate funds, but there are a few nuances to the ICAV that might lead to a conversion, such as the check the box option for US investors. In an existing Irish corporate structure, any changes to the constitutional document requires shareholder approval whereas in an ICAV it is only material changes that affect investors that require shareholder approval.

"Any housekeeping changes and ancillary updates can be eliminated from a shareholder vote, which makes things easier from a cost perspective," says Carty.

"Another of the ICAV's nuances, which can be viewed as advantageous, is that the manager can have separate financial statements prepared at the sub-fund level. That can be relevant to managed account platforms, in particular, where they have different managers and investment mandates operating altogether at the sub-fund level. In those instances, it is quite awkward for platform providers to share financial

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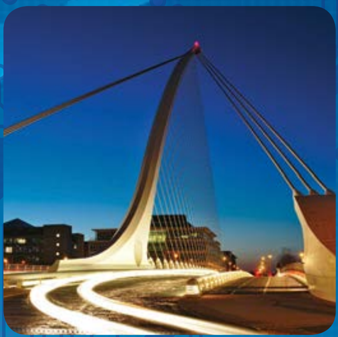


Irish QIAIF becoming a 'go-to' solution

Interview with Ken Somerville

Quintillion Limited is a European-based affiliate of U.S. Bancorp Fund Services, a global alternative administrator with assets under administration of USD117 billion, with AuA in Europe totalling approximately USD26 billion.

According to Ken Somerville, head of business development at Quintillion, Ireland's fund administrators are starting to see real interest among global fund managers, running both hedge funds and private equity funds, as Europe's credit markets continue to be restructured. This is leading to a wider, more complex range of credit strategies, with loan origination perhaps the most talked about example.

"At Quintillion, we provide loan servicing through our corporate trust arm. This gives us a particular advantage in the credit space. Forty percent of our client assets are credit strategy products, and we continue to see a trend in the development of these strategies in a QIAIF structure. Ireland has roared back into favour with managers as a complimentary onshore jurisdiction to their offshore jurisdiction," says Somerville.

It is not easy to get an EU fund to market, and non-EU managers are quickly discovering the extra compliance and infrastructure demands. A QIAIF (Qualifying Investor Alternative Investment Fund), for example, requires the appointment of a depositary (albeit in a less onerous 'depo lite' arrangement for non-EEA AIFs compared to EEA-based AIFs), meaning that the break-even point is greater.

Somerville says he is detecting a preference among investors to invest in large, well-established fund managers. "We are seeing more funds being launched, but fewer management company launches, and as a result, managers are becoming bigger and more sophisticated. Irish funds are finding real appeal with those managers as they diversify their product offering,

Ken Somerville, head of business development, Quintillion

especially now that the ICAV is available," says Somerville.

It has become an increasingly popular choice among managers to use the ICAV in conjunction with a QIAIF to structure complex strategies that do not readily fit into the restrictions of the UCITS regime. "The Irish QIAIF is becoming the go-to solution. It's timely because managers are becoming bigger and there is a clear appetite for new funds, as well as an appetite among European investors to commit capital to the alternative funds space," adds Somerville.

Managers looking to do loan origination, or pick up private equity and real estate assets in Europe, need to take care when selecting the right service providers.

"The more illiquid the asset, the more good governance (valuation and pricing, record keeping) and timely reconciliation becomes a vital value-add of a fund administrator. Ultimately, the administrator has to be central to the construction of the valuation policy. Not at a high level where it is described in the fund's offering memorandum, but at a completely granular level that dictates the mechanism by which the portfolio is priced. Taking on a pricing policy without being central to its creation is a dangerous move," suggests Somerville.

Under AIFMD, the depositary is required to determine whether or not the AIF has conducted itself in accordance with regulatory requirements. In addition, the depositary compares the conduct of the fund relative to its own offering documents.

"They look at the prospectus, the fund's investment book of records, and determine that the two are in accordance with each other. That gives an unaffiliated firm the opportunity to examine and oversee the fund's conduct independently, providing additional comfort that AIFMD offers to investors," concludes Somerville. ■

4 statements with investors without also including all other managers and strategies.

"With the ICAV, they can report purely on each individual sub-fund to the relevant investors."

Previously, using the Irish plc, MAP providers had to report on consolidated accounts across the platform. Now, by using the ICAV umbrella, MAP providers have the ability to structure funds-of-one or segregated managed accounts and provide separate financial reporting to each clients.

This is an important operational benefit and has led to more managed account platforms being created in Ireland, accounting for another important growth area alongside Ireland's funds ecosystem.

Permal Group, one of the industry's leading FoHF managers with USD20 billion in AUM, incorporated the very first ICAV last March following a decision to move a portion of its managed account platform ('PMAP') from the British Virgin Islands.

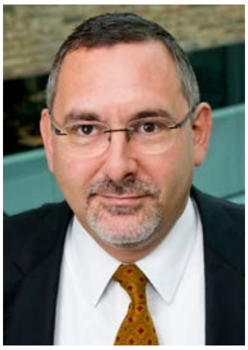
"Once we settled on Ireland, the obvious choice for us at the time was an Irish plc. We wanted to structure this as an umbrella to run one platform in one corporate vehicle as opposed to the way we had done it historically in the BVI, which was to use (and still use) separately incorporated limited companies that operate as professional open-ended funds," explains Michael McDonough, General Counsel at Permal Group.

"At the time, the ICAV was just being proposed in Ireland. The ICAV has a lot of benefits that you don't get from a plc structure, so we had a decision to make: do we launch the plc, do we wait for the ICAV to be introduced, or do we launch the plc and do a conversion into an ICAV?

"A couple of factors drove our decision to wait for the ICAV, in particular the additional time and cost it took in setting up a plc and then converting it to an ICAV at a later date."

Permal runs one of few buy-side managed account platforms in the industry. It currently has approximately 97 vehicles and USD7.7 billion of assets running on it in the BVI, of which around 14 have been transferred to the Dublin ICAV.

"We use this as an investment tool for our commingled fund products. In order for third parties to access the platform,



"The ICAV has a lot of benefits that you don't get from a plc structure, so we had a decision to make: do we launch the plc, do we wait for the ICAV to be introduced, or do we launch the plc and do a conversion into an ICAV?"

Michael McDonough, Permal Group

each institutional investor sets up an SMA, where we act as the discretionary manager," explains McDonough, adding that part of the ICAV's operational flexibility is the ability to dispense with the need for holding an AGM. "Another point is that with a platform of this size and the number of sub-funds, the ability to do separate audited accounts for each sub-fund, and also stagger those so that you're not doing them all at once, is very beneficial."

These are propitious times for Ireland and the supply demand dynamics look set to remain strong. From a supply perspective, EU and non-EU managers alike increasingly see favourable investment opportunities as Europe's banking industry restructures, opening up institutional investment in "corporate Europe" via loan origination and credit strategies. On the demand side, European investors are clamouring to invest in regulated hedge funds, not only to access European assets but US assets as well.

"Regulation is here to stay and increasingly, US managers understand that if they want to market their funds to European investors they will have to adhere to AIFMD requirements. That is helping to drive interest in establishing QIAIFs in Ireland. Another observation that I'm seeing is that in Europe, institutional investors want access to US-based investment advisors to get access to alternative investment vehicles that can give them exposure to US assets," confirms Nick Tsafos, Chairman and Director of EisnerAmper Global Ltd.

"Therefore, in order to get these investors on board, US managers are looking to set up funds in Ireland and other European 10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UCITS and AIFM provide EU gateway

Interview with Cyril Delamare

For EU and non-EU managers, the ability to choose between AIFMD or UCITS regimes to bring a regulated fund product to market with minimal fuss is a compelling one. With its unique business model, ML Capital has proven to the marketplace that there are many ways to scale the walls of so-called "Fortress Europe".

ML Capital operates two Dublin-domiciled platforms that between them are capable of supporting a wide range of alternative investment strategies, from the most liquid end of the scale to the most illiquid end. The MontLake UCITS Platform was established in October 2010, while the MontLake QIAIF Platform, the AIFMD compliant solution, was established in December 2014, providing a dual-pronged route to access European investors.


Cyril Delamare, CEO, ML Capital

"ML Capital is unique in what we offer," says CEO Cyril Delamare. "We cater for any type of European fund structure and position ourselves as the one-stop shop from a structuring perspective and distribution in Europe from our headquarters in Dublin. What makes us different is that we have a very clear idea as to what investors are looking for and that allows us to tailor the funds for our fund managers to match as best as possible the current demand."

David Hammond is General Counsel at ML Capital. He highlights that the direction of the market has become clear – whether it is from a regulator's viewpoint or an investor's, "it is around more substance and more quality. If you want to present an investment opportunity to investors it has to tick as many boxes as possible e.g. that it delivers returns in the right sleeve from a tax perspective and that it is fully onshore and regulated. From a manager's perspective, they want reassurance that the route for setting up a regulated fund is user-friendly. They want to know that the regulatory and operational considerations needed for a regulated fund to work well are all taken care of."

This is why solution providers like ML Capital are proving to be a vital cog in the European fund market. Running a regulated fund – UCITS or AIF – is potentially daunting for any manager and comes with a myriad of operational considerations. As Hammond articulates, "we like to think of ourselves as the glue that holds everything together and makes the operation work in such a way that it allows the fund manager to concentrate on the job at hand, which is generating performance and marketing the fund to potential investors."

Delamare further emphasises this point by adding that ML Capital helps fund managers "by carefully project managing every fund launch, taking into account the requirement of the regulator and service providers whilst making the product attractive to investors in a time efficient manner"

Managers can choose to work with ML Capital by joining its platform offering, where they elect to set up a sub-fund, or by using them for standalone fund services. With respect to the former, this is a fully outsourced solution where the manager joins either the MontLake UCITS or MontLake QIAIF platform and ML Capital's management company, MLC Management Ltd., acts as the external AIFM. If the manager prefers to launch their own standalone fund, ML Capital will do all of the operational heavy lifting and ensure that the fund runs smoothly; alleviating the pressure on the manager.

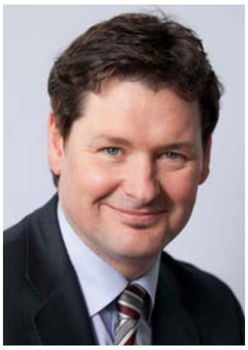
"We've built a team that has years of experience in the fund industry coming from a wide range of backgrounds including legal, distribution, risk and fund allocators giving us the ability to support multiple fund strategies and understand their requirements. ML's view is that the fund managers manage and we operate the funds," concludes Hammond. ■

7 ▶ jurisdictions. We are seeing clients setting up in Ireland not just to get access to Irish assets but to get access to European investors. They tend not to be setting up offices in Ireland; if anything, they are establishing a physical presence in London and domiciling the fund(s) in Ireland."

This is a trend that McDonough recognises. By creating the Dublin ICAV, Permal wants to provide a transparent vehicle (as it already does in the BVI) so that large, predominantly European institutions can make the appropriate regulatory risk calculations (e.g. Solvency II capital ratios), and minimise the haircuts that they have to take from a regulatory capital weighting perspective.

"From our side, we are seeing a growing preference among institutional clients for more regulated products. Offshore 'tax haven' jurisdictions don't cut it anymore with a lot of the institutional gatekeepers. And frankly they don't cut it with a lot of the people assigned to determine risk with respect to certain products. Rightly or wrongly, the optics of the situation are such that if it is not a regulated product then it can be considered to be higher risk by default, and the institutional market is becoming less interested in investing in such vehicles," says McDonough.

Carty is in no doubt that the appeal for regulated funds, in addition to the operational-friendly ICAV, has played out



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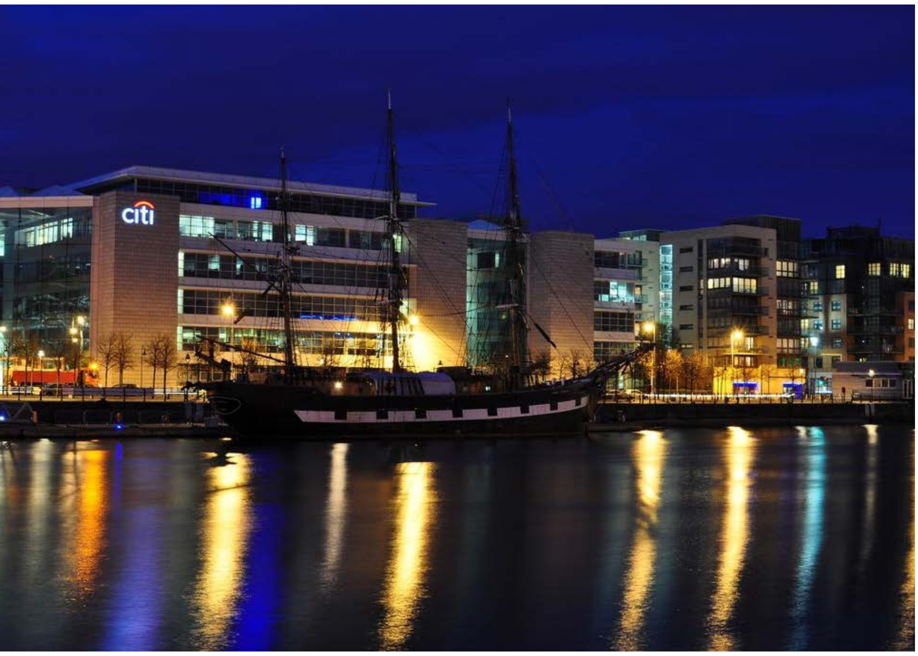
Donnacha O'Connor, Dillon Eustace



well for Ireland over the last 12 months. He says that Maples and Calder continue to see new entrants to the market; that is, managers who weren't previously creating Irish products who are now establishing structures in Ireland.

"That was a striking theme for us in 2015 in terms of new business. We are working with a range of Maples' global clients that are starting to look at Ireland, not solely because of the ICAV, but because of the regulatory benefits of the QIAIF, which is a very well recognised fund product within the EU regulated funds space.

"We have seen a good number of private equity and real estate managers coming to Ireland to pursue their investment strategies. In particular, where the manager is focusing on Ireland from a strategy perspective – in terms of private equity or real estate investments – it works quite well having the fund product structured there also. We have been getting quite a lot of 'downstream' work coming from private equity and real estate managers and we've seen a good deal of growth, in particular, in commercial real estate," says Carty.

On the alternatives side, Ireland has consistently led the way in Europe. It was the first European jurisdiction to introduce a regulated hedge fund product with the QIF; now the QIAIF under AIFMD. It was the first country to publish detailed AIFMD regulations as outlined by the CBI, the first country to approve an AIFMD-compliant loan origination product, and was the first jurisdiction to fully authorise an AIFM.

This gives Ireland a clear distinction and advantage in terms of being a primary jurisdiction for the administration of hedge funds globally. In excess of 40 per cent

of global hedge funds are administered in Ireland.

"One area where I think there is a distinction among regulated fund jurisdictions that counts in Ireland's favour is regulatory flexibility and the ability to bring products to market quickly. One example of this is the one-day authorisation period for QIAIFs," confirms McDonough.

"Ireland has built up an extensive network of relationships with fund managers in the UK and the US with strong business and cultural links in place. In terms of the expertise that we offer to back that up, Ireland is recognised as offering excellent capabilities in pricing and valuing complex assets, offering professional services for a wide range of alternative fund structures, strategies and asset classes. And on the regulatory side, there is a recognition that the CBI is very much at the forefront of being able to understand and provide sensible regulation when it comes to alternative fund strategies," explains Fox.

On the private equity side, Fox confirms that industry groups are working on Ireland's private equity offering to make it an even more attractive location for global PE groups

"We have further work planned this year, on the private equity side, to try and improve and increase the product offering that we have from a legislative perspective. We are looking at the Investment Limited Partnership Act to see how and where we can make

"One trend that we've seen over the last couple of years is the move from offshore jurisdictions to onshore Europe and Ireland is very well placed to attract a lot of those funds."

Kieran Fox, Irish Funds Industry Association

it more efficient. So there is a constant improvement and evolution of Ireland's product offering," says Fox.

One potential area of future growth for Ireland, more so over the long term as opposed to 2016, is the Capital Markets Union. The CMU is an attempt to bring greater harmony across the EU and make its capital markets more efficient; this is especially so for infrastructure and real estate investments. With greater harmony across EU Member States, the hope is that the CMU will make it easier for institutions to invest in alternative assets to better manage their long-term liabilities.

"Non-bank financing is a critical aspect as well i.e. direct lending. That should help to broaden out the market and support the loan origination QIAIF. There is traction at an EU level to increase non-bank financing," concludes Fox. ■

Open for business

Q&A with John Bohan

To what extent is Apex FS seeing interest in the QIAIF? And where is that interest largely coming from?

The non-UCITS QIF (Qualifying Investor Fund) has been one of the most successful fund structures in Ireland to date, its success reflecting the market appetite for a sophisticated regulated product facilitating hedge fund and other alternative investment strategies.

With the advent of AIFMD in 2013, there has been a growth in funds platforms with licensed investment management companies offering a fast track to market in a cost effective structure.

QIAIFs benefit from a fast track authorisation process meaning that a QIAIF can be authorised by the Central Bank within 24 hours of filing the appropriate documentation. Coupled with well-oiled re-domiciliation laws from other jurisdictions, these platforms are paving the way for alternative fund launches across Europe.

Managers across Europe and in particular the US, Middle East and Asia are seeing an easier route to raise capital in Europe using the regulated status of these funds.

John Bohan, Managing Director Europe & Middle East, Apex Fund Services (Ireland)

Has Apex FS been involved this year in bringing any new QIAIFs onto its books? If so, what kind of strategies?

Yes of course. The interest in the QIAIF and the latest legal structure, the ICAV, is reaching unprecedented popularity. As of October 2015 nearly 2,000 QIAIF funds with EUR360 billion in assets were registered in Ireland (source: irishfunds.ie).

The strategies are varied and reflect the popular asset classes of the last few years: property, I/S, opportunistic, distressed. The QIAIF regime has flexible regulatory requirement around the strategies; for example, it can employ leverage without restriction as long as it is disclosed in the prospectus.

The "plug and play" platform is also changing the landscape of the Irish funds industry as it continues to grow and provide a gateway to Europe and spawns a growing cottage industry around risk systems and compliance software solutions to meet the demand of the UCITS and non-UCITS platforms.

Given that the ICAV is proving popular, do you view this as an important period, not just for Ireland's funds industry but for Apex FS?

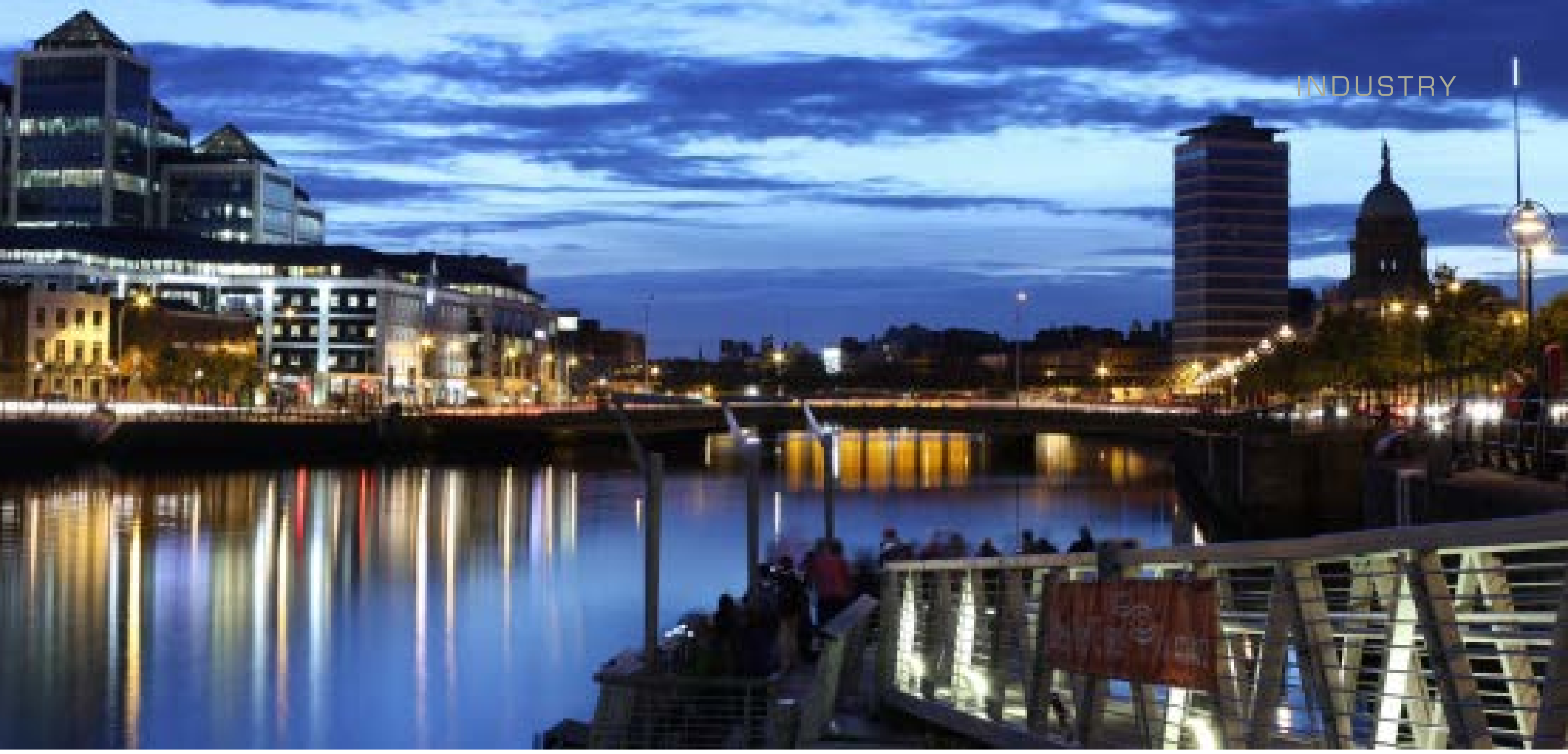
In the course of the post-crisis recovery and the re-building of the confidence in Ireland's economy, this has coincided with the reforms across Europe and tightening of controls in the funds industry. Greater onus on depositaries, fitness and probity of its directors and restrictions on time spent and quality of that time spent.

The message has been clearly stated in Ireland. We are open for business and have a product structure that will provide the assurance needed across global institutional or retail (UCITS or RIAIF) investors bases for alternative investment funds. As large global institutional pension funds allocate more bandwidth to the AIF industry so too does the product base continue to meet that demand.

Are there any operational adjustments or changes to your business model that you feel will be necessary in 2016 to attract new clients?

At Apex we have grown dramatically over the last five years, in particular as we focused early on the demand for data and where that would take us. The goal was to ensure that we evolved ahead of the industry and took our clients where they needed to go. It can clearly be seen that some of the larger behemoths and banks couldn't survive in that type of marketplace given large overheads and a lack of flexibility in the operational structures.

Our focus for 2016 continues to be client reporting and solutions and what we can do with our clients' data ensuring that we employ the highest encryption standards around that data. ■



Investor demand for QIAIF products on the rise

By James Williams

There has been a flurry of activity over at ML Capital in the last few months. The company provides a range of UCITS and AIFMD fund solutions to fund managers and currently has over USD1.5 billion of assets under management across its Dublin-based MontLake UCITS Platform and MontLake QIAIF Platform. The MontLake UCITS Platform, in particular, has added a number of new funds including: Mygale Event Driven UCITS managed by Neil Tofts; OTS Asia Opportunity UCITS, managed by OTS Capital Management, and SPARX OneAsia Long Short UCITS, managed by SPARX Asia Investment Advisors.

According to ML Capital's CEO, Cyril Delamare, there is a clear view among managers as to whether to launch UCITS funds or QIAIFs. "Today, people who run a liquid fund strategy and want to pursue an aggressive distribution strategy in Europe will go the UCITS route; this is something we would recommend. It is easier to talk about a UCITS fund to investors and much easier to distribute," says Delamare.

Of course, with more than 20 years of brand development behind it, UCITS is a far easier, recognisable fund wrapper for global investors to consider as compared to the AIFMD-compliant Irish QIAIF, which only has a couple of years' history. It will take time for AIFMD funds to develop but ML Capital is seeing signs of increased uptake.

"We are in the process of launching three QIAIFs but they are very different funds to UCITS. They tend to be strategies that don't fit into a UCITS wrapper aimed at European institutional investors who want better regulatory oversight than they would normally get with an offshore fund," explains Delamare.

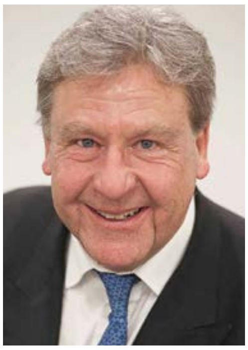
One of the funds will be launched on a standalone basis, where the fund manager owns the fund outright (i.e. doesn't sit on the MontLake QIAIF Platform) and appoints ML Capital as the AIFM. The other two funds will sit on the platform. And it is this flexibility, being provided by ML Capital and a host of other Dublin-based management companies that is helping non-EU managers overcome the fear of establishing EU fund products.

"Deciding on whether to use our platform, or to set up a standalone fund depends on the will of the individual manager. It may depend on factors such as branding, what the expected fund AUM will be, whether the manager wants to benefit from economies of scale by running a sub-fund on the platform. The point is, we can cater for managers in all scenarios," says Delamare.

A couple of years ago, most hedge fund managers would automatically go down the UCITS route, sometimes shoehorning their strategy which would lead to tracking errors. As Ken Somerville, head of business development at Quintillion, observes, often these funds tended to be a watered down, light alpha proposition: predominantly long-only across a diverse global equities portfolio or, if the strategy was more complex, using a total return swap arrangement to trade an underlying portfolio of securities; that option is not now available.

"At the same time, the QIAIF was considered to be a good product but it came up short in respect to global distribution. However, recently the appetite among managers has demonstrably shifted. Many are now using the QIAIF product in an ICAV structure, to access European investors as everybody becomes more familiar with AIFMD – and the big benefit here is that the manager can fully replicate their offshore strategy without the restrictions of UCITS. The QIAIF can be used to accommodate a de fatco hedge fund strategy. Consequently, more managers are starting to use the QIAIF to run an onshore strategy parallel to their offshore fund strategy.

"The marketplace has, to some extent, shifted its expectations towards investing in hedge funds. Some of the bigger, more conservative institutional investors in Europe are becoming more amenable to the QIAIF product, given that the availability of alternative strategies under UCITS is more limited," says Somerville.



"We will be focusing our efforts on our Irish depositary business to support both UCITS V and AIFMD fund structures."

Charles Bathurst, SuMi TRUST

One important function of an AIF is the requirement by the fund manager to appoint a depositary for either full depositary services, if it is an EEA-based AIF, or to provide a 'depositary lite' solution if it is a non-EEA AIF. Either way, the role of the depositary is related to regulatory and contractual compliance. Once the fund administrator has calculated the fund's NAV, the depositary (which might or might not also be the fund administrator) will, as part of its obligations under AIFMD, look at the investment book of records and determine whether or not the AIF has conducted itself in accordance with regulatory requirements.

"In addition, which tends to get overlooked, the depositary compares the conduct of the fund relative to its own offering documents. They look at the fund prospectus alongside the fund's investment book of records and determine that the two are in accordance with each other.

"That's an additional comfort that AIFMD offers investors," says Somerville.

SuMi TRUST sees depositary services as one of two key areas for business demand in 2016. "Firstly, we will be focusing our efforts on our Irish depositary business to support both UCITS V and AIFMD fund structures. And secondly, demand for our complete UCITS V funds solution encompassing fund administration, shareholder services, TA, depository and custody," confirms Charles Bathurst, consultant to the board of SuMi TRUST.

SuMi TRUST has a financial licence to act as an independent depository in Ireland [through its group company SMT Trustees (Ireland) Ltd] and this, says Bathurst, "is driving strong business demand for our services from third party administrators that do not have the requisite financial license in Ireland to act as an independent depositary.

"The solid balance sheet and capital

▶ 18

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US groups focus on Irish distressed assets

Interview with Nicholas Tsafos

US private equity and real estate groups are paying close attention to the opportunities on offer in Ireland to pick up distressed assets, as the ripples of the '08 financial crisis continue to be felt there. Whether they are buying actual assets, or the debt that is held on those assets, depends on what the individual manager is trying to achieve but as Nicholas Tsafos, Chairman and Director of EisnerAmper Global Ltd, observes: "Whether it is commercial real estate or retail real estate, we are seeing managers invest in a variety of property portfolios, buying landmark properties such as the Shelbourne Hotel, for example.

"Private equity groups are also accessing real estate through the acquisition of debt, acquiring the loans of retailers. We also see managers investing in Ireland's healthcare industry due to private hospitals being over-leveraged and unable to get their debt re-serviced. It's a real mix of opportunities."

Nicholas Tsafos, Chairman and Director, EisnerAmper Global Ltd

The primary route to acquiring Ireland's distressed assets is via the National Asset Management Agency ('NAMA').

One of the biggest consequences of the financial crisis is that banks have had to reign in their lending activities to meet capital ratio requirements under Basel III. They are not lending to middle market businesses as readily as they once were. This is making it harder for businesses to extend loans coming to the end of their maturity, or apply for fresh loans for business expansion, R&D, etc.

In Europe especially, more private equity and hedge fund groups are looking to fill the funding gap. "Private equity groups are originating middle market loans in Ireland, as well as in the US. They are paying more attention to Ireland because of the impact the financial crisis had there. In addition, Ireland's tax and legal structure provides comparatively more flexibility. This appeals to fund managers because they know they can put tax-efficient structures in place, especially now that the ICAV structure is available," says Tsafos.

In tandem with its Ireland team, EisnerAmper LLP sets out to find the best service providers for US-based clients wishing to register investment vehicles in Ireland, which, says Tsafos, "we think will work well with a manager's US service providers. For example, finding a law firm that has the equivalent legal language fluency as their appointed US law firm. It's critical that there's a coordination of service providers between the two countries, and we can facilitate that."

More specifically for hedge fund managers, Tsafos and his colleague and fellow EisnerAmper partner, Peter Cogan, have travelled numerous times to Ireland and forged relationships with many of Ireland's prime brokerage community.

"Crucially, our partners in Ireland have introduced us to the key representatives at NAMA. If US managers are looking to pick up distressed assets, we can help because we have that direct relationship in place," adds Tsafos.

As the Chairman of the Board of EisnerAmper Global, Tsafos is able to point prospective clients, interested in doing business in Ireland, to the best partner to speak with. "It depends on their individual circumstances. If an advisor is based in London or Switzerland, it would make sense to speak to our team in Ireland directly, but if they are based in the US, our New York team would be the best option. We can explain all the necessary US considerations, and Ireland considerations, to setting up an Irish fund vehicle," concludes Tsafos. ■

15 ▶ ratios of our parent company, SMTB group, coupled with the longevity of SuMi TRUST's experience in Ireland, robust operational systems and processes, deep industry knowledge and networks, position us perfectly to fulfil the role of local depository provider, whether for non-licenced third party administrators or managers directly looking to set up these funds."

One area that bodes well for Ireland's future development as Europe's leading onshore hedge fund domicile is the loan origination QIAIF; the latest example of Ireland's fund evolution. This is potentially good news for Irish fund administrators and registered AIFM platforms, as global fund managers look to get involved in financing corporate Europe as banks scale back their lending activities.

Somerville points that there are a small number of providers in Ireland capable of combining a corporate trust facility with fund administration services for loan origination funds under the same roof and has no doubt that Ireland is well placed to further prosper with such a product.

"Given our expertise in supporting loan funds, maybe we have a slightly different view than others but we are feeling bullish and think there are significant growth opportunities in the loan origination space. It's not the case that most of Ireland's fund administrators can provide a range of complimentary corporate trust and fund administration services. The fact that we can means we might have a slight bias but we have reason to believe that we are making a sound judgment call on the potential of Ireland's loan origination QIAIF," says Somerville, confirming that a lot of interest is coming from Quintillion's existing US client base to complement offshore strategies they've been running for a number of years.

"Not a day passes when one of our US clients gets in touch to do some fact finding on European vehicles. This year we've already had three US clients who are launching funds in Ireland to sit alongside their existing offshore fund(s)," confirms Somerville.

Bathurst says that Ireland's first-to-market introduction of the AIFMD-compliant loan origination QIAIF structure is an example of "Dublin's leadership as a European

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Ken Somerville, Quintillion

jurisdiction in meeting the needs of qualifying investors requiring specialist investment product within an onshore regulated vehicle but we have seen only limited demand to date for this product since its introduction."

Donnacha O'Connor is a partner at law firm, Dillon Eustace. In their view, the opportunity is definitely there for Ireland, confirming that there is "definitely increased interest from PERE managers in Ireland, for which we can thank AIFMD to some extent. These managers may have traditionally favoured non-EU domiciles for their fund vehicles but are now looking at fully AIFMD compliant solutions in friendly EU jurisdictions.

O'Connor continues: "The QIAIF works well as an asset gathering vehicle and the QIAIF loan origination product is designed to be a flexible pure loan fund product that is transparent to investors, while meeting a regulatory standard that could future-proof it against any increased regulation in the non-bank lending sector.

"QIAIFs have proven to be popular vehicles for European distressed assets. They can give significant portfolio level tax advantages, particularly when combined with Irish treaty access acquisition vehicles, compared to offshore funds and of course offer a gateway to the EU investor markets via the AIFMD passport."

Stephen Carty, Investment Funds Partner, at Maples and Calder (Dublin), says that he is "a little more circumspect" on the degree of uptake in the loan origination QIAIF.

"We acted for the first ever loan origination QIAIF and it may yet be the only one –

the level of growth in this fund structure perhaps hasn't been as fast as some people were expecting. We expect to see further development in this space when the product is re-examined by the regulators in order to make it more appealing to managers. There may also be a pan-EU initiative on direct lending, which would be beneficial to, and dovetail well, with the Irish QIAIF," comments Carty.

The Central Bank of Ireland realised early on, post-crisis, that there were a lot of non-performing assets. This led to the formation of the National Asset Management Agency in 2009. By analysing them to determine which of those non-performing assets investors might be interested in, the first steps were taken to make it easy for investors to access them. "I think that's ultimately what led the CBI to approving Europe's first AIFMD-compliant loan origination vehicle," says Nick Tsafos, Chairman and Director of EisnerAmper Global Ltd. "It's smart planning. My sense is that the people working in Ireland are highly entrepreneurial. They are always looking for new ways to improve the overall economy, to get people into jobs, and to create a financial services industry that best serves its clients."

According to figures produced by Preqin, a total of 83 private debt funds launched over the first three quarters of 2015, representing an aggregate AUM of USD64.5 billion. Whilst North America led the way in terms of the highest number of new funds – 14 compared to 8 in Europe – European funds secured a higher volume of net asset: USD10.3 billion compared to USD7.9 billion.

This is a market that looks set to continue to expand, which augurs well for the loan origination QIAIF. It is a huge market opportunity for US managers with a strong track record in direct lending in North America's debt capital market.

"I totally agree. Right now, with the stimulus that the ECB wants to provide to get the continent's economy growing again, at the same time banks must adhere to Basel III capital ratios, which is prohibiting them from originating loans. This is allowing fund managers to jump in and either pick up distressed loans, or originate new loans to small and medium-sized enterprises," adds Tsafos.

Back at ML Capital, David Hammond, General Counsel, explains that as much support as necessary is given to fund managers as they look to explore routes into Europe, be it via the UCITS or AIFMD regulatory framework. He says that the starting point is determining where the divisions are going to lie.

"Let's assume they want to go down the full outsourcing route. The manager would need to design the product, and depending on the strategy decide whether it would best work under a UCITS wrapper or an AIFMD wrapper. We would also check to see whether there is actual investor appetite for the product; this could boil down to pricing, fee structures," says Hammond.

Next, one needs to consider the distribution framework: what kind of investor is the manager hoping to attract with the fund? Which EU markets will they be targeting?

"This is a key consideration because you could spend a lot of time on the operational side of the fund, getting it launched, but if you overlook the marketing considerations all that work in the early stages might be wasted.

"Therefore, a lot of conversation takes place with each manager before it ever gets to the point of structuring the fund. Once the parameters are in place and the manager knows what sort of fund they want, what distribution channels they intend to use, we can move on to the next step of deciding whether to launch it as an AIF or as a UCITS," concludes Hammond. ■