



FINANCIAL SERVICES

Investment Limited Partnership — An Introduction

by **David Naughton**

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7th October 2019 | by David Naughton

An Investment Limited Partnership (“**ILP**”) is a common law partnership structure in Ireland, that does not have a separate legal personality. An asset manager may use the ILP to house a regulated AIF with a focus on investment strategies such as credit, private equity, sustainable finance and real estate.

An ILP is formed under the Investment Limited Partnerships Act 1994 and is regulated as an AIF on receiving authorisation by the Central Bank of Ireland (the “**Central Bank**”).

This legislation is currently being modernised in order to achieve an aim of the Government to make Ireland a global location for regulated partnership investment funds. In parallel, the Central Bank is considering updates to its regulatory rulebook in this area. This article briefly examines the key features of the ILP and some of the legislative changes currently being proposed in the [Investment Limited Partnerships \(Amendment\) Bill 2019](#) (the “**Bill**”).

Key Features of the ILP

Basic Legal Structure

Common law partnership structure with one or more general partners and at least one limited partner formed through a limited partnership agreement (“**LPA**”). There is no maximum number of limited partners.

Basic Regulatory Structures

The ILP is an AIF which may be authorised as a qualifying investor alternative investment fund (“**QIAIF**”) or a retail investor alternative investment fund (“**RIAIF**”). The ILP may not be authorised as a UCITS.

General Partner (“**GP**”)

The GP is responsible for managing the business of the partnership and, as an ILP does not have power to enter contracts in its own name, the GP usually enters into contracts on its behalf. The GP is also liable for the ILP’s debts and obligations.

Investors

The limited partners of a QIAIF ILP must meet ‘qualifying investor’ criteria (i.e. an investor who is a professional client under MiFID or an investor with the appropriate expertise, experience and knowledge to adequately understand the investment).

Investor Liability

All investors subscribe to the limited partnership as limited partners and will not be liable for the debts or

obligations of the ILP beyond the amount of capital contributed or undertaken to be contributed to the ILP (unless they engage in the management of the ILP, in which case they risk losing their limited liability).

Minimum initial commitment

€100,000, for a QIAIF ILP.

Investment restrictions

A QIAIF ILP has no material investment restrictions and no borrowing or leverage limits (subject to making clear investor disclosures).

Diversification requirements

None.

Service Providers

An AIFM (which may passport its management licence into Ireland) and an Ireland-based General Partner (with two Irish resident directors), depositary, administrator, auditor and legal adviser.

Delegation to non-EEA investment manager

An AIFM of an ILP may delegate portfolio management and/or risk management to a non-EEA investment manager, in accordance with AIFMD.

AIFMD marketing passport

An authorised AIFM that manages an ILP is capable of using the AIFMD marketing passport to sell ILP interests throughout the EEA, except where the ILP is a feeder fund to a non-EEA AIF.

Timing

Provided all service providers and directors are approved in advance by the Central Bank, and material ILP documentation is agreed, the ILP may use the Central Bank's 24 hour authorisation process.

Tax

As a collective investment undertaking, an ILP is not subject to tax at the level of the investment fund on income, gains or dividend payments to non-Irish investors. Tax transparent for tax purposes in Ireland. The ILP can elect in the U.S. to "check the box" to be treated as a corporate (i.e. tax transparent globally but corporate in the U.S.).

Some legislative changes in the Bill

The Bill proposes the following main legislative changes to the ILP in Ireland:

Extension of Safe Harbours

The list of activities which, if undertaken by a limited partner, will be deemed not to be taking part in the conduct of the business and so do not result in loss of liability for a limited partner, is being extended to permit a limited partner to participate on advisory committees related to an ILP, vote on changes to the LPA and engage in other related activities.

Alternative Foreign Name

Inclusion of the power to register an alternative foreign name in order to facilitate an ILP operating in a non-English speaking jurisdiction to have official recognition of a translated name in that jurisdiction.

Amendment of the LPA

Removal of requirement for all partners to consent in writing to amendment of the LPA. Replaced by provision, to be contained in the LPA, for amendment of the LPA: (i) where agreed by the majority of partners; and (ii) providing for the ability to make changes to the LPA if the depositary certifies that the proposed amendments do not prejudice the interests of limited partners and certain other requirements are fulfilled.

GPs

Creation of a statutory transfer of assets and liabilities on the admission or replacement of a GP, so that all rights or property of the ILP shall vest in the incoming partner or existing GPs. Seeks to simplify the administrative process of changing GPs.

Umbrella ILP

Inclusion of the ability to establish an umbrella ILP with segregated liability between its sub-funds.

Conclusion

We anticipate that, once adopted, the amending Act will, in addition to the above, provide for certain other changes which will strengthen the operation of an ILP. These changes may include the ability to migrate a partnership into and out of Ireland on a statutory basis.

The Bill is an important element of Ireland's strategy to develop its international financial services sector and to take advantage of the growth in non-bank finance in the E.U. The Bill moved to the third stage of the legislative process in Ireland on 18 September 2019, and we will keep you updated on its [progress](#).

The [LK Shields Financial Services Team](#) provides sound technical and business orientated advice and support to clients seeking to negotiate the increasingly diverse and dynamic world of financial services regulation. Contact details for individual team members can be found [here](#).

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