

# HFMWEEK

SPECIAL REPORT

## IRELAND 2011

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### REGULATION

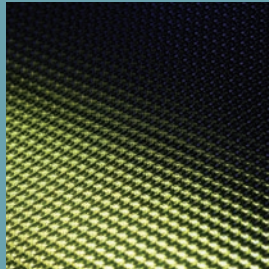
Confidence grows as the implementation of the AIFMD looms

### KEY PRODUCTS

The Irish perspective on Ucits, Newcits, QIFs and ETFs

### NEW MARKETS

Ireland does business with Asia, the Middle East and Latin America



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# THE GOLD STANDARD

ANDREW BATES OF DILLON EUSTACE DISCUSSES THE EXPANDING IRISH INVESTMENT SPACE AND THE RANGE OF VEHICLES AVAILABLE TO INVESTORS



**Andrew Bates** is the head of the financial services department at Dillon Eustace, former council member of the Irish Funds Industry Association, regular speaker on funds related topics as well as author of numerous articles and contributor to industry publications.

**F**igures published recently by the Irish Funds Industry Association (IFIA) show that Ireland is now home to 43% of all European hedge funds, and that the net asset value of funds domiciled within the jurisdiction is just shy of the lofty €1tn (\$1.4tn). Growth will not stop here however, as Ireland continues to advance in leaps and bounds, creating new products and international partnerships, explains Andrew Bates of Dillon Eustace.

**HFMWeek (HFM):** There has been a lot of buzz surrounding the expansion of the Irish alternative investment space in recent months. In what ways has the range of products available in Ireland extended?

**Andrew Bates (AB):** As a key exporter of funds and financial products on a global scale, Ireland has seen some very interesting developments in recent months. To give a flavour of what has been achieved, one of my colleagues Brian Kelliher worked closely with the National Bank of Abu Dhabi to bring about the first listing of an exchange-traded fund (ETF) in the Persian Gulf. He also worked with a very large UK-based asset manager in establishing an investable hedge fund index product within Undertakings

for Collective Investment in Transferrable Securities (Ucits). Another partner, Donnacha O'Connor, acted for what is believed to be the first ever merger arbitrage Ucits. We have also been working recently on several hedge fund and credit-related products using qualifying investor funds (QIFs), as well as acting for the first Chinese asset manager approved as a promoter of Irish funds. Ireland is being used by fund promoters from all over the world as a funds domicile, with North American, UK and Asian promoters to the fore and, very recently, we have begun to see quite a few funds being re-domiciled to Ireland from offshore jurisdictions.

**HFM:** What makes Ireland an attractive domicile for funds across the spectrum of the alternative investment space?

**AB:** Ireland is an attractive domicile for both Ucits and non-Ucits funds. The reasons for this are in part historical, as Ireland was quick to introduce the original Ucits directive and a gross roll-up tax arrangement, which means that the fund itself is not taxed in Ireland (Irish investors are, however, subject to tax when they transfer, exit or redeem) and followed that with a domestic regime for a wide range of non-Ucits fund products. This has led to a large influx of funds, has attracted domestic and international fund administrators, custodians, legal and accountancy firms and listing sponsors and has been supported by a very experienced Irish regulator – all these factors contribute to the industry's continued growth.

**HFM:** What factors have been instrumental in making Ireland one of the most popular domiciles for Ucits funds in particular?

**AB:** Ucits funds are by far the largest representative category of funds based in Ireland, and they have become the European, if not global, gold standard for investment products. There are various reasons behind this, including the fact that the product is one that



focuses on liquidity and portfolio diversification, and requires independent custody. Approximately 80% of the funds domiciled here in terms of net asset value are Ucits funds, and Ucits has become a product that is sold not only within the other 26 European member states but also in Asia in places such as Japan, Hong Kong and Singapore, and also in Latin America and the Middle East. Ireland in particular, aside from holding the regulatory and taxation advantages previously discussed, does business in English and is a common law jurisdiction so is particularly attractive for promoters from North America and the UK. Many managers set up their vehicle in Ireland, use Irish administrators and custodians, but manage the product from abroad and market it internationally and over time Ireland has built up a reputation as a leader in terms of exporting Ucits.

**HFM: What type of investor should look into Ucits funds?**

**AB:** Ucits can cater for the full spectrum of investors and offers a wide range of investment opportunities. The product range includes: highly diversified equity products; ETFs; money market products; products designed for long-term investment horizons and Newcits. Investors include retail investors, pension schemes and other institutional investors, corporate and governmental bodies, as well as other Ucits and other funds investing in Ucits. Ucits allows for a single product to be sold in multiple jurisdictions through several channels and can target a wide range of markets. As time has gone on, the product has transformed from one focused on equities and money market instruments to one that allows many alternative strategies, such as index replicating type products including hedge fund and commodity

index funds, ETFs, and fund of funds, with further positive changes coming under Ucits IV.

**HFM: How will the impending regulatory changes affect the Irish alternative funds investment space?**

**AB:** The Irish alternative investment funds space can be broadly divided into two, with the traditional non-Ucits alternative funds, which in Ireland are known as QIFs, on the one hand, and Ucits on the other. QIFs include: hedge funds; funds of hedge funds; real estate funds; private equity funds; and highly leveraged products, and can be open-ended, limited liquidity or closed-ended.



THE IRISH ALTERNATIVE INVESTMENT FUNDS SPACE CAN BE BROADLY DIVIDED INTO TWO, WITH QIFs, ON THE ONE HAND, AND UCITS ON THE OTHER

This product range is expected to benefit from the Alternative Investment Fund Managers Directive (AIFMD). Ucits also offer many more liquid alternative strategies, since Ucits III, which are often referred to as Newcits and include long/short products, structured pay-off products and alternative index funds. Ucits funds will be affected by Ucits

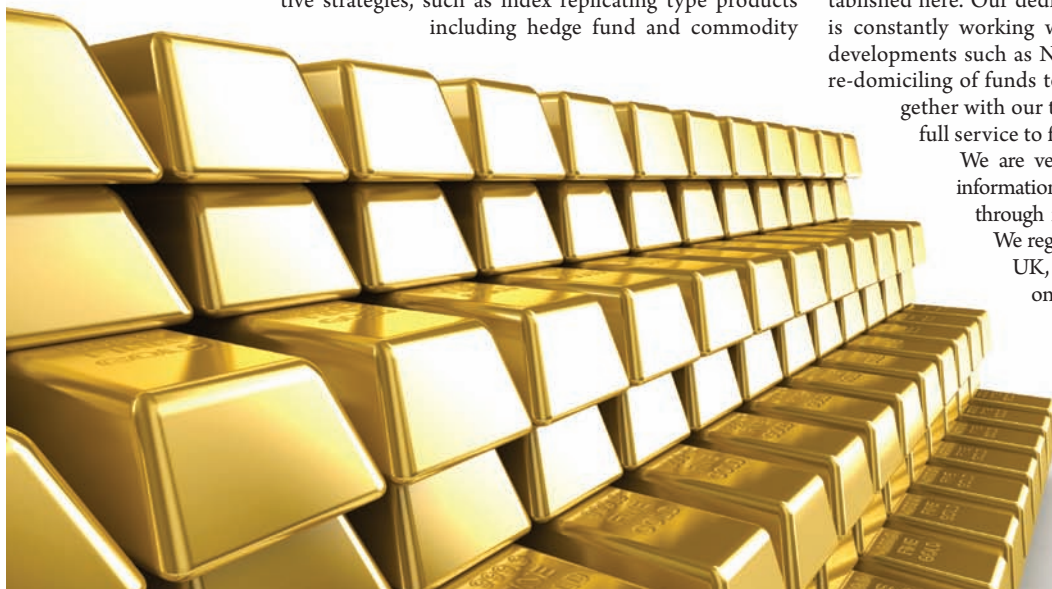
IV in that more governance will be required, and there will be new capacity for Ucits management companies to manage Ucits on a cross-border basis, as well as offering the capacity for master/feeders and more simplified merger arrangements. These changes will affect Ucits in a broader sense, and not just the alternative Ucits product.

**HFM: How has Dillon Eustace positioned itself to best rise to the challenges and take advantage of the opportunities afforded by recent regulatory changes?**

**AB:** We have the largest investment funds team in Ireland and work with approximately 25% of the funds established here. Our dedicated group of 35 fund lawyers is constantly working with clients in relation to new developments such as Newcits and QIFs, including the re-domiciling of funds to Ireland. Our lawyers work together with our tax and listing units to provide a full service to funds clients.

We are very active in providing published information and updates to clients, as well as through industry committee participation. We regularly run seminars in the US and UK, as well as in Asia, updating clients on the evolution of fund products, regulatory changes that are coming down the line and how clients can best take advantage of them.

Recent publications include guides on Ucits and Ucits alternatives, on hedge funds, private equity and real estate funds. We also publish a quarterly update on fund related matters for clients. ■



# We can...

# ...see the wood

Dillon Eustace provides innovative advice on alternative investment products such as single and multi-strategy hedge funds, FoHFs, and UCITS alternatives.

With the largest alternative investment legal team in Ireland and benefitting from experience from all sectors of the industry, Dillon Eustace advises international and domestic asset managers, banks, prime brokers and other service providers on all aspects of alternative investment products including product design, launch, listing, tax and compliance.

2010 HFM Week European Hedge Fund Services Award – Best UCITS Advisory Firm.

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