A Guide to Multi-Manager Funds in Ireland

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Introduction

This publication examines the regulatory frameworks applicable to multi-manager funds and fund of funds in Ireland, a leading key European "exporting" fund domicile, including the impact of UCITS III and the opportunities becoming available through the use of pooling techniques.

Multi-Manager Funds v Fund of Funds

It is important to understand at the outset that multi-manager funds and funds of funds are different products and are subject to quite different regulatory regimes, even though one finds that the term "multi-manager" is often loosely used to describe both fund types. The principal differences between the two fund types can be summarised as follows:

Structure:

a fund of funds is one which has as its main object the investment of its assets in other funds, whereas a multi-manager fund, instead of investing in other funds, engages different portfolio managers to directly manage its assets in separate accounts, with discrete asset portfolios being allocated for management across those individual portfolio managers.

Segregation:

a fund of funds will generally be just one of many investors in the underlying funds into which its invests, whereas in a multi-manager fund the assets remain within the scheme, simply being managed on a separate account basis.

Control:

multi-manager funds set parameters for discrete mandates for each portfolio manager to whom assets are allocated, with the capacity to readily alter those mandates and to re-allocate assets between portfolio managers to achieve particular styles. A fund of funds controls its own allocations across different funds but has no control over the objectives or styles of management of the funds it invests in other than the capacity to redeem (where allowed).

Regulation:

multi-manager funds are generally not regulated as such (other than in relation to portfolio manager appointments and prospectus disclosure) but the fund itself will have to comply with its own applicable investment restrictions (whether UCITS or non-UCITS) tailored for its investment objective. The true multi-manager element is a management style, not a separate product type. A fund of funds is specifically regulated, normally by reference to the types of underlying funds into which investment may be made (UCITS, non-UCITS, open or closed-ended, or limited liquidity, regulated or unregulated etc.) and the maximum permitted exposures to any one underlying fund.

Portfolio Information:

a fund of funds will normally not have frequent access to detailed portfolio information from the underlying funds, receiving such information only periodically, whereas a multi-manager fund, because it retains its portfolio under its delegates management, will be able to see at all times its portfolio holdings which can more readily facilitate its allocation strategies and enable greater compliance monitoring

Fees:

a fund of funds is subject to the aggregate fees of each of the underlying funds (management, administration, custody, audit etc.) in which it invests although may be able to negotiate rebates of management fees or invest in classes with lower management fees, depending on size of investment. Regulations may dictate treatment of rebates from underlying managers and entry/exit charges. The fees of individual portfolio managers within a multi-manager scheme are negotiated on a portfolio manager by portfolio manager basis, depending on the type and size of portfolio allocated, the required management style/performance criteria etc.

Viable Size:

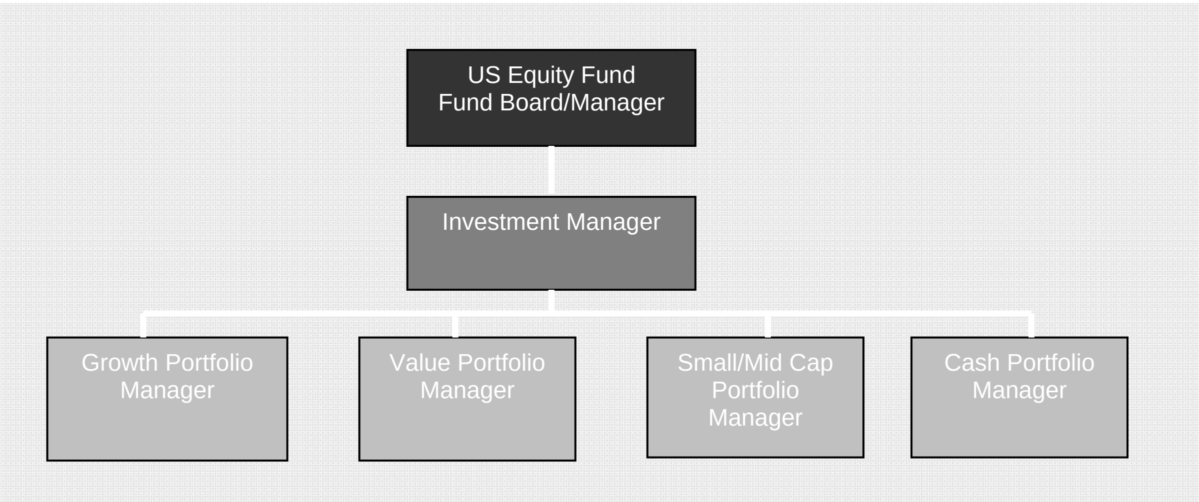
for small funds, adopting a multimanager approach may not be commercially appropriate or practical – the mandates it can allocate may be too small for most portfolio managers and the structural costs (selection process, portfolio and compliance monitoring, account administration and custody) too great to justify such a structure – pooling may offer a solution to this difficulty. A fund of funds benefits from economies of scale as it is generally only one of many investors in other managed funds. Provided it can meet any minimum investment requirements of its target funds, its own size is generally not relevant and relatively small portfolios can readily be managed on a fund of funds basis.

Investment Compliance:

in a fund of funds, the central compliance focus is on fund selection (due diligence) and monitoring the allocations across underlying funds to ensure both regulatory and self-imposed maximum exposure criteria are met. The fund of funds does not have a contractual control over the management of the underlying funds nor can it monitor the underlying portfolios other than on a periodic basis. The position is quite different for a multi-manager scheme – it manages its own portfolio within its own product limits, contracting directly with portfolio managers to manage discrete portfolios giving each tailored mandates, benchmarks, performance targets, etc. It is for the multimanager fund or its investment manager (responsible for portfolio manager selection and monitoring) to blend those mandates/portfolios to meet the overall fund objective and to comply, on an aggregate basis, with the investment and borrowing restrictions at the fund level. Additionally, as the portfolio managers are delegates of the multi-manager fund, it retains a responsibility over the portfolio managers for asset management and for monitoring performance and other developments at portfolio manager level.

Regulation of Multi-Manager Funds in Ireland

There is no specific regulation of multi-manager funds in Ireland, the applicable rules being those of the actual fund type (UCITS or non-UCITS, vanilla or alternative etc.) and the general rules relating to the process of appointing portfolio managers, continuing filing obligations and prospectus disclosure. The following diagram shows a basic multi-manager structure.



Exemption from requirement for prior approval of Portfolio Managers

For Irish domiciled funds, the general rule is that any entity with discretionary asset management capacity, whether an investment manager or a delegate thereof such as a portfolio manager, must be approved in advance by the Irish Financial Regulator. There are, however, specific exemptions for certain "qualifying" non-UCITS multi-manager schemes as explained further below. It is also important to note that entities appointed in an advisory capacity only (i.e. with no discretionary powers over the assets) do not require prior approval.

The Irish Financial Regulator has issued a specific Guidance Note 1/97 for non-UCITS multi-adviser schemes which provides for exemptions from the prior approval process, from the requirement to file annual audited accounts for portfolio managers and from the requirement for prospectus disclosure. These exemptions are available to “qualifying” non-UCITS multi-manager funds which meet the following criteria:

- the investment manager must demonstrate that it has relevant expertise in multimanager type funds and have minimum assets under management of €500 million;

- the assets of the fund should be allocated to a minimum of five portfolio managers and no more than 40% gross assets of the fund should be allocated to any one portfolio manager;

- the individual portfolio managers and the amount of assets allocated to each portfolio manager may change over time, and should be determined by the investment manager in its sole and absolute discretion;

- the maximum amount of leverage used by each portfolio manager and the terms under which each portfolio manager invests the assets of the fund must be agreed in advance with the investment manager and must not be in conflict with the leverage and trading policies of the fund;

- there must be no guarantee that any particular portfolio manager will be appointed, or will continue to be appointed, to the fund;

- the investment management agreement must contain an undertaking to the fund that the investment manager will satisfy itself as to the expertise, integrity and adequacy of financial resources of any portfolio manager to the fund, prior to the appointment of that portfolio manager and further that the investment manager will not knowingly hire any portfolio manager who has been involved, or a related or associated party of whom has been involved, in any actions, suits or proceedings of a criminal, civil or disciplinary nature where this could be deemed material.

Where prior approval required

Where prior approval is required, (i.e. where exemption under Guidance Note 1/97 is not available), the Irish Financial Regulator will only approve an entity that is itself authorised to carry out discretionary investment management under either the EU Markets in Financial

Instruments Directive ("MiFID") or under an equivalent regulatory regime. The Financial Regulator will not approve nor will it accept the appointment of unregulated entities to provide discretionary asset management services in respect of Irish domiciled funds.

The Irish approval process requires the completion of a detailed application form by the prospective portfolio manager and requires annual filing of the portfolio managers audited accounts. In the case of a MiFID authorised entity, submission of the completed application form will generally be sufficient, with the Financial Regulator not carrying out additional regulatory approval process (although, it may require separate verification of the entity's home state authorisation). Non-EEA / non-MiFID applicants are subject to a full approval process in Ireland.

The requirement for prior approval of portfolio managers can impact on the speed by which an investment manager can allocate assets / monies to incoming portfolio managers where such incoming portfolio managers have not previously been approved by the relevant regulator. The implications of UCITS III for UCITS multi-manager funds (outlined below) must now also be factored into the selection/approval process.

Prospectus Disclosure

The second relevant regulatory requirement in the context of multi-manager schemes relates to disclosure in the prospectus of the identity of and biographical information in relation to portfolio managers.

The Irish Financial Regulator's general disclosure rule is that the details of the principal investment manager must be disclosed in the prospectus but that the identity and biographical information of portfolio managers does not need to be disclosed where their fees are paid by the principal investment manager. However, where such fees are paid out of the fund itself, such details are required to be disclosed. Some investment managers are willing to make such disclosure but many others find it either cumbersome – regular updating of fund documentation – or strongly object to public disclosure of their chosen portfolio managers given both lack of capacity at many firms and the desire not to disclose strategy to competitors.

In the case of Irish "qualifying" non-UCITS multimanager schemes (see above), the following disclosure requirements apply:

- the prospectus should clearly describe the nature of the fund (i.e. that it is a multi-manager fund) and state that the prospectus and subsequent periodic reports will not contain disclosure in relation to the names of the portfolio managers which will be employed;

- the prospectus should fully describe potential conflicts of interest between portfolio manager and the investment manager and /or the fund and how these will be resolved;

- the periodic reports of the fund should disclose the maximum and minimum number of portfolio managers employed and the maximum percentage of the gross assets of the fund allocated to a single portfolio manager during the relevant reporting period;

- where the fund becomes aware that a portfolio manager or a related or associated party of a portfolio manager has been involved in any actions, suits or proceedings of a criminal, civil or disciplinary nature which could be deemed material, this will be disclosed in the periodic reports of the fund, together with any consequent action the fund has taken or which it proposes to take.

Filing of Portfolio Management Agreements

Each executed portfolio management agreement must be filed with the Irish Financial Regulator. However, such agreements are not subject to prior scrutiny – the filing law firm must certify that the agreement contains certain specific provisions and does not offend others. Filing is effected on the date of execution.

Relevant UCITS III Issues

Promoters of UCITS type multi-manager funds need to be cognisant of the implications of UCITS III provisions as they apply to the portfolio manager approval selection/approval process and liability for delegates. The requirements flow from the Article 5(g) to the UCITS Directive which in summary provides:

- a discretionary mandate may only be given to entities which are authorised/registered for the purpose of asset management and subject to prudential supervision;

- where the mandate is given to a third country (i.e. non-EEA) undertaking, co-operation between the supervisory authorities concerned must be ensured;

- the mandate given must not prevent the persons who conduct the business of the UCITS to give further instructions to the portfolio manager and to withdraw the mandate with immediate effect when this is in the interest of investors;

- the prospectus must list the functions which the management company has been permitted to delegate.

These provisions can have quite significant practical implications. For example, if the Irish Financial Regulator does not have in place co-operation arrangements (such as a memorandum of understanding) with the supervisory authorities in the home jurisdiction of the portfolio manager, the appointment may not be able to proceed.

It needs to be borne in mind that putting in place a memorandum of understanding is not necessarily a straightforward exercise and can involve diplomatic as well as regulatory channels and, accordingly, delays may be encountered. Particular care should be taken by UCITS when selecting portfolio managers from emerging markets for this reason. The above provisions may also require the incorporation into the portfolio management agreement of an additional termination capacity to enable the mandate be withdrawn with immediate effect when this is in the interest of investors, although it may be that the capacity to simply re-allocate assets entirely will be sufficient.

It is also important to bear in mind that under UCITS III not only are there additional regulatory obligations regarding monitoring of delegates but that it is also clear from Article 5(g)(2) that a management company's delegation of asset management functions to portfolio managers does not affect the management company's liability to investors.

Pooling Opportunities for Multi-Manager Funds

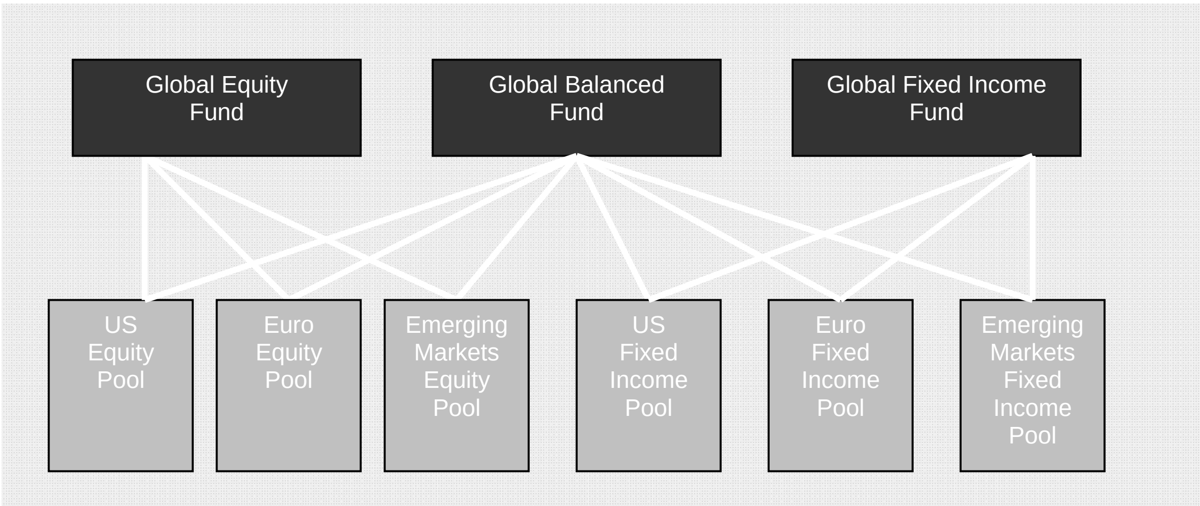
When explaining the key structural differences between multi-manager funds and fund of funds, we noted that it may not be commercially or practically appropriate to manage a small portfolio on a multi-manager basis given the inability to allocate sufficient assets to individual portfolio managers or across a group of portfolio managers whereas, in a fund of funds scheme, given that the fund of funds is generally only one of many investors in the underlying target funds, such difficulties generally do not arise.

Pooling may provide a solution for promoters who wish to run smaller funds on a multimanager basis. Pooling arrangements come in a number of different varieties such as entity pooling (within vehicles such as common contractual funds or CCFs), virtual pooling (a co-ownership arrangement supported by common custody and administration functionalities), intra-fund pooling (pooling by funds within a single umbrella scheme), extra-fund pooling (pooling between two separate fund schemes) as well as cross- jurisdictional pooling. Pooling can also be achieved between different types of legal entities, including between investment funds, insurance funds, managed accounts, etc. In the context of multimanager schemes, pooling enables a fund promoter who would not otherwise have the volume of assets sufficient to justify a multimanager approach, to engage underlying portfolio managers directly by participating in a virtual pooling model where it is one of a number of participants in a pool managed centrally by the selected portfolio manager.

In the example below, three different funds pool discrete portfolios to be managed by specialist portfolio managers where a multimanager approach might not be economically viable in its own right without pooling.

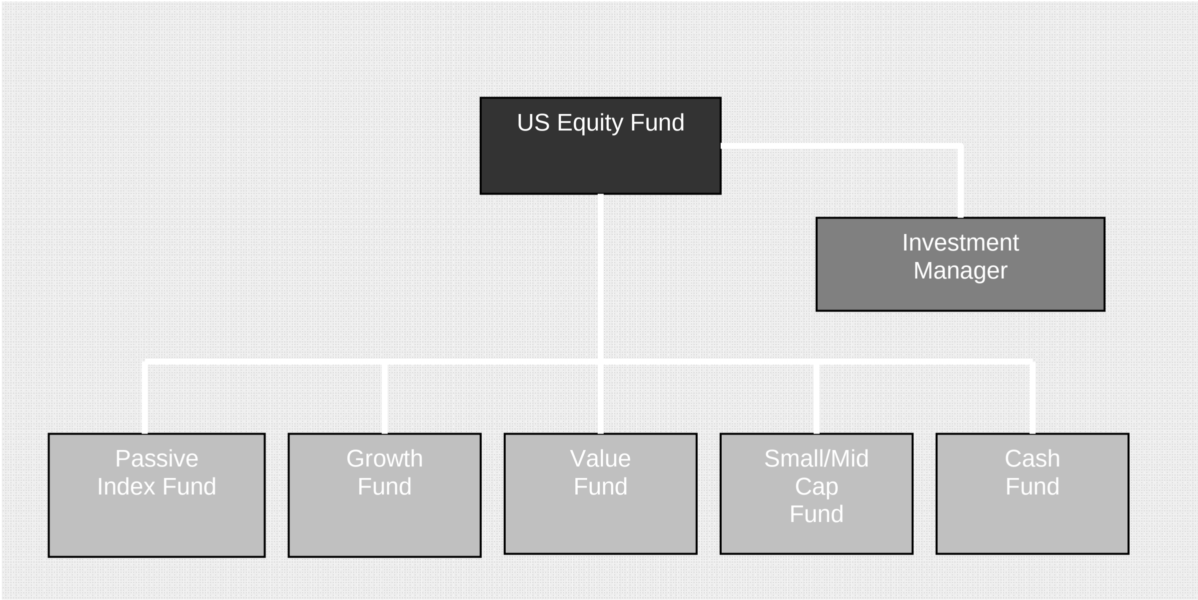
It is important to understand that we are referring to virtual pooling – there is no new legal entity involved- where not only must the pool be managed on a common basis (common portfolio manager, common objectives and common restrictions), but additionally a common custody and fund administration approach is essential to ensure the respective entitlements of each of the participating funds can be clearly established for monitoring, reporting and fiscal purposes.

The following diagram shows a simple pooling approach:



Regulation of Fund of Funds in Ireland

Whilst there is no specific regulation of multimanager funds in Ireland, the position for funds of funds is quite different. Ireland has specific rules on fund of fund schemes. For ease of understanding, we have addressed separately below the Irish non-UCITS regime and the UCITS III regime, and how they have been implemented in Ireland. The following diagram outlines a simple fund of funds structure:



Non-UCITS Fund of Funds in Ireland

Promoters may establish non-UCITS fund of fund schemes across different investor categories - retail investor, professional investor and qualifying investor. This classification is most important as it dictates the Irish Financial Regulator's approach to the types of underlying funds in which investment may be made and the maximum permitted exposures to any one underlying fund.

The Financial Regulator has issued a specific notice, NU1.5, which is supplemented by Guidance Note 1/01 which together set out in detail the acceptable investments for Irish authorised non-UCITS fund of fund schemes. The applicable rules set out limitations (expressed as a percentage of net assets) on the proportion of a fund that can be invested in a single underlying scheme, impose requirements in relation to the nature and operational arrangements of such underlying schemes and their domiciles, the treatment of commissions and rebates, and related matters.

Retail Investor Fund of Funds

The general rule for retail investor schemes is that they are subject to two principal restrictions. Firstly, they may only invest in underlying funds which the Financial Regulator is satisfied provide an equivalent level of investor protection to that provided by Irish authorised schemes. Secondly, they are required to adopt diversification rules.

The diversification rules provides that retail investor fund of funds may not invest more than 20% of net assets in the units of any one underlying scheme. There is flexibility however to allow investment in one of the underlying funds go up to 30% of net assets. Additionally, an Irish retail fund of funds may not invest in units of another fund of funds scheme and the maximum exposure to direct investments (i.e. other than in the units of underlying funds) is 10% of net assets, although the Financial Regulator may allow a greater amount of direct investments in hybrid schemes.

Where a scheme is authorised with mixed investment objectives, investment limits applicable to a particular type of scheme are calculated by reference to that portion of the scheme's overall net asset value invested in that fashion. However where a principal objective is, and/or the investment policies provide for, a significant investment in other collective investment schemes, investment limits are calculated by reference to the net asset value of the scheme rather than on a pro-rata basis. There are also provisions in relation to treatment of commission received by virtue of investing in an underlying scheme and also the treatment of entry fees at the underlying fund level where those funds are managed by the manager of or by a company affiliated with the manager of the Irish scheme.

The Financial Regulator has indicated that the following are acceptable investments for Irish retail investor fund of funds:

- UCITS schemes;
- schemes established in Guernsey and authorised as Class A schemes;
- schemes established in Jersey as Recognised Funds;
- schemes established in the Isle of Man as Authorised Schemes;
- non-UCITS retail investor schemes.

There is also a residual capacity to invest up to 10% of net assets in unregulated schemes.

It is also possible for retail investor fund of funds (subject to prior approval) to invest in other domestic EU schemes that are not UCITS, Guernsey Class B schemes, schemes established in Jersey which are not Recognised Funds, schemes established in the Isle of Man as Unauthorised Schemes and schemes authorised by the US SEC, where those schemes comply, in all material respects, with the Irish rules relating to retail schemes. Consideration of all "material respects" would include, inter alia, consideration of:

- supervision by the home/domicile regulator;

- the existence of an independent trustee/custodian with similar duties and responsibilities as those to an Irish retail fund in relation to safekeeping and supervision;

- requirements as to the spreading of investment risk including concentration limits, ownership restrictions, leverage and borrowing restrictions;

- availability of pricing information and reporting requirements;

- redemption facilities and frequency;

- restrictions in relation to dealings by related parties.

The Financial Regulator does not regard an investment in a closed-ended scheme (one which does not provide investors with the right to request redemption of their investment on at least a monthly basis) as an acceptable investment for an open-ended fund of funds scheme.

However, an investment in a closed-ended (or limited liquidity) scheme that complies with the normal investment limits applied to transferable securities is permitted under Guidance Note 1/01. It is considered that investment of up to 10% of the net asset value of the fund of funds would be acceptable to the Financial Regulator. Where the fund of funds is itself closed-ended, investment in underlying closed-ended funds is permitted.

Retail Fund of Unregulated Funds

It is possible to establish a retail fund of unregulated schemes (i.e. a fund of hedge funds). The rules for such a fund are that there are appropriate risk warnings, ancillary disclosures and the following diversification rules:

- no more than 20% of net assets may be invested in any one unregulated scheme;

- unregulated schemes must be subject to an independent audit and must have arrangements in place whereby all assets are held by a party/parties independent of the manager of the underlying scheme (this could include the prime broker).

Importantly a fund of unregulated funds scheme may not invest in units of another fund of funds or feeder scheme (this is to avoid layering).

There is an exception to this, however, as master/feeder arrangements will be permissible where access to certain funds is only possible through a master feeder structure - in that case the feeder prohibition does not apply.

There must be no double charging of investment management fees in such circumstances and disclosure of other areas of duplication of fees must be made.

Investments in closed-ended schemes are subject to similar restrictions as outlined for retail schemes above.

Additional requirements relate to the experience and expertise of the manager of the fund of funds and the capacity of its systems to monitor the underlying funds.

Professional Investor Fund of Funds

A professional investor (minimum subscription of €125,000) fund of funds may invest up to 100% in unregulated schemes, subject to a maximum of 20% in any one unregulated scheme. However a professional investor scheme which is a fund of funds which invests no more than 20% in aggregate in unregulated schemes can invest up to 40% in any one scheme which is an acceptable investment for a retail fund of funds scheme.

Some other restrictions apply. The maximum exposure to other fund of funds is 10% of net assets and a professional investor fund of funds scheme is not permitted to invest in a feeder scheme (i.e. one which primarily invests in one other fund). This is due to concerns about increased costs and lack of transparency.

There is an exception to this, however, as master/feeder arrangements will be permissible where access to certain funds is only possible through a master feeder structure - in that case the feeder prohibition does not apply.

There must be no double charging of investment management fees in such circumstances and disclosure of other areas of duplication of fees must be made.

Professional investor funds are permitted to invest in closed-ended schemes on the same basis as a retail fund of funds.

Qualifying Investor Fund of Funds

A qualifying investor (minimum subscription of €250,000 and additional net worth/AUM criteria for investors) fund of funds may invest 100% in unregulated schemes subject to a maximum of 50% of net assets in any one unregulated scheme. The restrictions on investment in closed-ended schemes applies equally to qualifying investor funds.

Investing in underlying feeder funds and in other fund of funds is permitted (without limit) subject to relevant disclosure requirements (disclosure should include the implication of that policy regarding increased costs and resultant lack of transparency).

Investing in Funds with Lock-ups

Investing in funds with lock-ups is acceptable for retail funds of unregulated funds, for professional and for qualifying investor funds, where the following factors are taken into consideration:

- the frequency at which units of the fund may be redeemed by its investors;
- the duration of the lock up period of the underlying schemes;
- the amount invested in underlying schemes for this lock up period.

The key issue for an open-ended scheme investing in underlying schemes with lock-up periods is to ensure that that does not affect the redemption arrangements provided for in the prospectus issued by the Irish funds.

Commission Received

Commission received arising off investing in underlying schemes must be paid into the Irish fund and entry fees at the underlying fund level must be waived where the manager or the underlying fund or any affiliate thereof is the manager of the Irish fund.

Cross Investment within umbrellas

Where a sub-fund invests in one or more sub-funds of the same umbrella, in addition to waiving entry/exit fees, the investing sub-fund may not charge an annual management fee (or investment management fee) in respect of that portion of its assets invested in other sub-funds.

One sub-fund within an umbrella investment company type scheme is only permitted to invest in another sub-fund within the same umbrella where the umbrella scheme or its delegate (i.e. the administrator) has the systems capability to provide disclosure in relation to crossholdings in accordance with industry adopted standards.

Additionally, investment may not be made in a sub-fund which itself holds units in other sub-funds within the same umbrella.

Professional and qualifying funds established as unit trusts or CCFs may deviate from this rule provided further cross investment is not allowed.

UCITS Fund of Funds

UCITS are permitted to invest up to 100% of their assets in other open-ended collective investment schemes (“CIS”) where those CIS are:

- other UCITS; or
- other EU or non-EU CIS the sole object of which is the collective investment in transferable series and/or in other liquid financial assets of capital raised from the public and which operate on the principle of risk spreading and the units of which are at the request of holders, repurchased or redeemed, directly or indirectly out of those undertakings assets provided that:

  (a) such other CIS are authorised under laws which provide that they are subject to supervision considered by the Financial Regulator to be equivalent to that laid down in community law and that co-operation between authorities is sufficiently insured;

  (b) the level of protection for unitholders in the other CIS is equivalent to that provided for investors in a UCITS and in particular that the rules on assets segregation, borrowing, lending and uncovered sales of transferable securities and money market instruments are equivalent to the requirements of the UCITS;

  (c) the business of the other CIS is reported in half-yearly and annual reports to enable an assessment to be made of the assets and liabilities, income and operations over the reporting period; and

  (d) no more than 10% of the UCITS or other CIS assets, whose acquisition is contemplated, can be, according to its rules or instruments of incorporation invested in aggregate in units of other UCITS or other open-ended CIS.

Investment Restrictions

In addition to the restrictions on the types of non-UCITS CIS that a UCITS may invest in, there are four main investment restrictions which apply to UCITS investing in other CIS which are that:

- the maximum exposure to any one CIS may not exceed 20% of the net asset value of a UCITS (each sub-fund of an underlying umbrella CIS being regarded as a separate CIS for the purpose of applying this limit);

- the maximum aggregate investment in non-UCITS CIS may not exceed 30% of the net asset value of the UCITS;

- investment in a CIS which can itself invest more than 10% of net assets in other CIS is not permitted; and

- investment in a CIS must not result in the acquisition of more than 25% of the units of any single CIS (or sub-fund of an umbrella CIS).

Acceptable Types of Non-UCITS CIS

In Guidance Note 2/03, the Financial Regulator has indicated it will permit investment by UCITS in the following categories of non-UCITS CIS:

- schemes established in Guernsey and authorised as Class A schemes;

- schemes established in Jersey as Recognised Funds;

- schemes established in the Isle of Man as Authorised Schemes;

- non-UCITS Retail CIS authorised by the Financial Regulator itself provided such CIS comply in all material respects with the provisions of the UCITS Notices;

- non-UCITS CIS authorised in the Member State of the EEA, the United States, Guernsey or the Isle of Man and which comply, in all material respects with the provisions of the UCITS Notices.

Financial Regulator's consideration of "in all material respects"

In this regard, the Financial Regulator's consideration of "all material respects", includes, inter alia, consideration of:

- the existence of an independent trustee/custodian with similar (to Irish trustee/custodians) duties and responsibilities in relation to both safekeeping and supervision;

- requirements for the spreading of investment risk, including concentration limits, ownership restrictions, leverage and borrowing restrictions, etc.;

- availability of pricing information and reporting requirements;

- redemption facilities and frequency;

- restrictions in relation to dealings by related parties.

Other Jurisdictions Tests

As you will note from the above, the Financial Regulator has indicated a number of jurisdictions and types of CIS which it considers to be acceptable for investment by a UCITS. Other jurisdictions and types of CIS may be considered by the Financial Regulator on submission to it and in assessing any such submissions, the Financial Regulator has indicated in its Guidance Note that it will have regard to memoranda of understanding (bi-lateral or multi-lateral), membership of an international organisation of regulators or other co-operative arrangements, (such as exchange of letters) to ensure satisfactory co-operation between the Financial Regulator and the competent authority of the relevant CIS:

- the management company of the target CIS, its rules and its choice of trustee have been approved by its own regulator;

- the CIS is authorised in an OECD jurisdiction.

Financial Regulator's consideration of "equivalence" for Non-UCITS CIS

As indicated above, in order for a non-UCITS to be an acceptable investment of a UCITS, the Financial Regulator needs to be satisfied that it is both authorised under a legislative regime which provides that it is subject to supervision considered by the Financial Regulator to be equivalent to that specified in community law and that the applicable regulatory regime is such that the level of protection for investors is equivalent to that provided for investors in a UCITS, that rules on segregation of assets, borrowing, lending and uncovered sales of transferable securities and money market instruments are equivalent to those laid down by the UCITS Directive.

In its Guidance Note 2/03, the Financial Regulator has indicated that it will use the following factors to guide its consideration as to whether such equivalence exists:

- rules guaranteeing the autonomy of the management of the CIS, and management in the exclusive interest of the unitholders;

- the existence of an independent trustee/custodian with similar duties and responsibilities in relation to both safekeeping and supervision. Where an independent trustee/custodian is not a requirement of local law, robust governance structures may provide a suitable alternative;

- availability of pricing information and reporting requirements;
- redemption facilities and frequency;
- restrictions in relation to dealings by related parties;
- the extent of asset segregation; and
- local requirements for borrowing, lending and uncovered sales of transferable securities and money market instruments regarding the portfolio of the CIS.

Fees/Charges and Disclosures

Where a UCITS intends to invest more than 20% of its net assets in other CIS, its prospectus must disclose the maximum level of management fees that may be charged to the UCITS itself and to the underlying CIS. In other words, the aggregate management fees at both levels have to be disclosed. In addition, actual aggregate management fees at both levels have to be disclosed in the UCITS annual report.

In addition, where a UCITS invests in a linked CIS (where both the UCITS and CIS are managed, directly or indirectly by delegation by the same management company or where the management company of both the UCITS and underlying CIS are linked by common management or control or by a substantial direct or indirect holding), the manager of the underlying CIS is not permitted to charge subscription or redemption fees by account of the UCITS investment in it.

Cross Investment within umbrellas

Where a sub-fund invests in one or more sub-funds of the same umbrella, in addition to waiving entry/exit fees, the investing sub-fund may not charge an annual management fee (or investment management fee) in respect of that portion of its assets invested in other sub-funds.

One sub-fund within an umbrella investment company type scheme is only permitted to invest in another sub-fund within the same umbrella where the umbrella scheme or its delegate (i.e. the administrator) has the systems capability to provide disclosure in relation to crossholdings in accordance with industry adopted standards.

Additionally, investment may not be made in a sub-fund which itself holds units in other sub-funds within the same umbrella.

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