



On the crest of the wave

The roundtable panel in this latest Quarterly edition of the Finance Dublin Funds Monitor gives insight into the latest investment fund market trends, on fund structure, fund type and investment strategy levels, as Irish-domiciled investment funds reach an all time record NAV. The range of Irish fund structures and the different roles they play as part of Ireland's funds eco-system are also examined. Our experts also comment on the all-encompassing topic of ESG as regulators and investor demand continue to reshape the asset management industry's approach and drive innovation in the services provided across front, middle and back office operations. Other major topics covered include: regulatory changes and the early steps that can be taken by FSPs and executives; outsourcing, technology and the impact of changes to AIF marketing rules.

The Roundtable Contributors are, listed in order of their appearance in this edition: Meliosa O'Caioimh, Country Head - Ireland, Northern Trust; Ross McCann, Head of Fund Services, Alter Domus, Ireland; Donncha Morrissey, Head of Branch, Sparkasse Bank Malta plc Ireland Branch; David Dillon, Director (Ireland), MJ Hudson; Tadhg Young, Executive Vice President, Country Head - Ireland, State Street; Niamh Ryan, Partner, Funds, Simmons & Simmons, Ireland; Derbhil O'Riordan, Partner, Asset Management and Investment Funds, Dillon Eustace; Frank Talsma, Director, Risk & Investment Analytics at RBC Investor & Services; Claire O'Brien, Director, Client Coverage at RBC Investor & Treasury Services; Conor Joyce, Head of Transfer Agency, Ireland, IQ-EQ; David Petiteville, Director, Regulatory Solutions at RBC Investor & Treasury Services.

Irish market trends

With Irish domiciled investment funds reaching an all time record NAV value (of €3,805bn at end-August 2021), it seems that the jurisdiction remains very successful, but buoyed by strong markets globally. This seems apparent, given the strong performance of equity related funds, as distinct from MMFs, which were relatively static in the year to June. Could you comment on the trends?

Meliosa O'Caioimh, Country Head – Ireland, Northern Trust: The Irish industry has continued to enjoy growth in assets under management, yet there is no room for complacency. Inflows continue to be very encouraging and we remain focused on meeting our clients' requirements for choice, flexibility and professional expertise to help them

distribute their strategies.

It is essential that the Irish funds industry and us as service providers continue to innovate and improve clients' experience in order to maintain current success. While their performance may have been relatively static recently, we are confident that the long-term trajectory of product development and growth for MMFs will continue, including through the current consultations on the EU's MMF Regulation. MMFs will continue to be a useful part of investors'



Meliosa O'Caioimh

toolkits in helping manage cash and liquidity, well-supported by the Irish funds industry and us at Northern Trust.

Ross McCann, Head of Fund Services in Alter Domus Ireland:

We see strong growth in equity related funds globally, a trend we have been following for several years now. The low interest rate environment has been one factor that has driven investors to seek returns in a more diversified way. Private equity, real estate, infrastructure, and



Ross McCann

particularly the debt and private credit sectors have all seen major growth in popularity with increasing allocations from institutional investors. This represents a fundamental long-term global rebalancing of capital flow rather than a temporary shift. Ireland's successful performance in growing its equity related funds sector is partially based on an already strong fund services sector and with compelling macro fundamentals overall, and since Brexit, Ireland sits even more distinctively as a gateway to Europe, particularly for US managers. The Irish fund sector, well supported by the Government and the IDA, has also strongly marketed Ireland as a jurisdiction of choice within Europe. Considering this year's product enhancements, such as the updated ILP legislation, CBI guidance on share class features of closed-ended QIAIFs, and the new depository (DAoFI) regime, we expect to see increased traction in the way of fund launches.

Donncha Morrissey, Head of Branch, Sparkasse Bank Malta plc Ireland Branch:

Undoubtedly the equity markets have witnessed a rebound in 2020 with continuous growth since the nadir of the Covid crisis in Q1 and Q2 2020. Irish domiciled funds have benefited from this growth as represented by the all-time high NAV value as referenced in the question, most markets benefiting from the market rebound and positive revaluation of equity assets following the volatility of 2020. It is worth noting that this latest growth in equity markets has been aided also by the significant drop in US interest rates that has seen some reassignment of capital into equity markets that may have been

previously expected to be retained in cash instruments.

How should such figures be judged and how should we define success? By peer analysis of course i.e in consideration of the performance of other jurisdictions, and in essence looking at the net positive sales figures of the jurisdiction (as international market upswing should benefit all).

Overall Ireland comes out well having grown by approx. 5% in the period, exceeding the Euro growth of 4.1%. Focusing on those sales figures Ireland saw net sales of +€82.84 bn in Q2 2021, nominally this was second highest in Europe during the period accounting for 36.33% of all net sales in Europe over the period.

“Whether it be assets under administration and custody, direct local employment, Exchequer activity, or simply the volume of funds and fund managers seeking Ireland as a location of domicile or service, the graphs are all trending upward... now more than ever the ‘stars are aligned’ when it comes to the upward trajectory.”

On a consolidated basis at a European level total net sales contributed 1.12% growth which Ireland outperformed by reflecting total growth of 5% but 2.25% coming from sales, evidently above the European average. This reflects overall the positive continued performance of Irish domiciled investment funds.

David Dillon, Director (Ireland), MJ Hudson: It is true to say that the NAV value of Irish funds has continued to increase dramatically. I believe this is a function of the infrastructure and resources available to service domiciled funds. It is clear that in recent times support requirements for the funds industry are very significant. I think it is for this reason that Malta, which had aspirations of following in the footsteps of Luxembourg

and Ireland has not succeeded in getting a serious foothold as a domicile. It is perhaps for this reason that Luxembourg and Dublin have continued to grow at a remarkable rate. It would be interesting to speculate if this jurisdiction has been as successful as it might have been, however.

Domiciles must continue to adapt and be relevant to the changing environments of an industry. Hopefully the introduction of the ILP will give Ireland another string to its bow. It must be right that if a domicile can reach a critical mass of notable promoters and registered funds it will benefit from strong market performance and it is true to say that the size of many funds has seen significant growth due to strong market performance, principally in global equities. Even if global equities fall out of favour other asset classes will take their place.

Tadhg Young, Executive Vice President, Country Head – Ireland, State Street: The success of Ireland as a funds domicile is unquestioned, and the trend is for continued growth, no matter what the measure used. Whether it be assets under administration and custody, direct local employment, Exchequer activity, or simply the volume of funds and fund managers seeking Ireland as a location of domicile or service, the graphs are all trending upward. The overall success of the domicile has long been documented and understood, but now more than ever the ‘stars are aligned’ when it comes to the upward trajectory.

The assets classes and structures that have seen strongest growth globally – ETFs, ESG related product, private assets and illiquid securities – these are all areas in which Ireland offers both specific fund structures to house the assets, but also the expertise across all aspects of service including legal, advisory, taxation, administration, and custody. This

positioning has not happened by chance, rather it is a function of a collaborative effort across the fund’s ecosystem to ensure that Ireland has been best positioned for growth as these new opportunities presented themselves.

The Irish vehicles

Latest Central Bank data show the (mid year) figures for Specialist Irish funds structures, with, by end June 385 ICAVs, 25 CCFs, and 6 already established (by then) Irish Limited Partnerships. Could you comment on this, making reference perhaps to the relative advantages of the different structures, e.g. the expense of establishing CCFs, the success of ICAVs, and the progress to date of ILPs?

Ross McCann, Head of Fund Services in Alter Domus Ireland: ICAVs have been the AIF vehicle of choice in Ireland since their launch in 2015 and have gained increasing popularity over that period. Within the total number of ICAVs mentioned (385), over 40 were authorised in the first six months of this year. The segregated sub-fund umbrella structure has been a critical feature in the success of ICAVs and when additional sub-funds are accounted for, the total extends to over 1,400. We see ICAVs serving several purposes within global fund structures as both European feeders and master funds. In the private asset sectors, many asset managers and their investors have been able to get comfortable with the corporate characteristics of the ICAV in the absence of a credible Irish partnership offering. The ability to offer itself as an opaque corporate entity for tax purposes and its ability to ‘check the box’ means ICAVs will continue to be popular for ‘US treaty type’ structures. The long-awaited legislative enhancements to the Investment Limited Partnership was like adding a brand new product to the Irish offering and provides managers with a credible alternative to Luxembourg when it comes to European fundraising using regulated limited partnerships. We are also seeing the ILP being used as a regulated European feeder in certain circumstances. Over the past six months, we have seen queries around ILPs turning into opportunities and now genuine new business. We expect this to grow significantly over time as familiarity and structuring opportunities become even clearer.

Niamh Ryan, Partner, Simmons & Simmons: The success of the ICAV is not surprising due to the fact that before



Donncha Morrissey



David Dillon



Tadhg Young

the ICAV, the plc, was always the most popular choice for managers as it was easiest to establish. Once the ability to segregate sub-funds across an umbrella was written into Irish law, that made the plc even more attractive. The disadvantage of the plc was that it remained subject to general



Niamh Ryan

company law requirements which were not always appropriate for fund structures as well as the fact that it was not tax transparent. Therefore the arrival of a fund specific corporate vehicle in the form of the ICAV was welcomed. The ability for it to check the box for US tax purposes was also much welcomed and again was a significant difference to the plc. It remains very popular as it is easy to establish and managers and investors are familiar with corporate vehicles. The CCF is a tax transparent vehicle formed under the laws of contract between the management company and the depositary. It works well for pension funds although it is not exclusively for pension funds and it is only available for institutional investors. Investors are deemed to own the underlying assets of the CCF and therefore from a tax perspective, investors can usually benefit from lower withholding tax rates or exemptions which may not be available if they invested through the ICAV, as there is a look through from the investors to the underlying assets. While it can be more expensive to establish due to the need for it to have a management company, that expense can be balanced by the tax benefits ultimately. Also it is worth noting that most ICAVs, whether UCITS or AIFs, now need to appoint a management company or establish their own management company and accordingly the difference in establishment costs may no longer be that significant. Finally the updated ILP is clearly still in early stages with quite a way to go before competing as a vehicle with the longer established ICAV and CCF. It is intended for private equity type assets and so as managers become more familiar with it as a vehicle and with Ireland as a jurisdiction for that asset class then the expectation is that we will see more new ILPs being established.

Tadhg Young, Executive Vice President, Country Head – Ireland, State Street: The data is not surprising and demonstrates the continued growth of Ireland as a domicile for investment funds, as well as Ireland's offering of the spectrum of legal structures required to support all investment fund product and investor types the market demands.

The Irish Collective Asset Management Vehicle (ICAV) is the bespoke corporate structure for funds and is available to both UCITS and AIFs. It is also the most commonly used legal structure. An ICAV may elect to be taxed as a partnership for US federal tax purposes (meaning a US investor is placed in the same tax position as if they had invested in the underlying investments of the ICAV), rather than as an opaque company subject to the Passive Foreign Investment Company (PFIC) regime. As an ICAV is not required to be incorporated under the Irish Companies Acts, it is administratively less onerous than the Public Limited Company (PLC) structure and is therefore more cost efficient.

“We are confident that the long-term trajectory of product development and growth for MMFs will continue, including through the current consultations on the EU’s MMF Regulation.”

The ILP, though still only in the early stages of adoption by managers, is becoming increasingly attractive to managers in the private markets sector globally, particularly from North America and the United Kingdom, who are looking to access the European market. The ILP has been designed to provide the flexibility and benefits seen in partnerships in more traditional private equity fund domiciles but within a regulated on-shore vehicle in a common law jurisdiction that may avail of the European Union's Alternative Investment Fund Managers Directive (AIFMD) marketing passport. It is a tax transparent vehicle that is not subject to Irish withholding taxes on distribution and retains the VAT exemptions enjoyed by other regulated Irish funds. In addition, similarly to the ICAV, the ILP has 'check the box' capability in relation to US tax reporting.

The continued strong growth in the use of the CCF structure is due to it being a highly tax transparent vehicle which differentiates the CCF from other legal structures available in Ireland. The CCF is

a contractual arrangement available to institutional investors and is established under a deed, which provides that investors participate as co-owners of the assets of the fund. Furthermore the CCF facilitates institutional investors pooling their investments thereby creating economies of scale resulting in the potential for lowered costs, while maintaining withholding tax benefits.

Meliosa O’Caoimh, Country Head – Ireland, Northern Trust: A critical success factor for the Irish industry historically has been our ability to support all client and fund types and strategies. Over the last ten years, Ireland successfully onboarded the AIFMD and UCITS V frameworks and created a number of new fund types – with the ICAV proving particularly popular with clients.



Meliosa O’Caoimh

In addition, a hallmark of Ireland's continued success over decades has been our continued innovation and client-friendly approach to doing business – a key part of which has been a sustained programme of product and service innovation in tax-efficient funds, further developing the ICAV and the recent launch of the ILP. Against this backdrop, Ireland is competitively positioned to continue as a natural home for a range of traditional and alternative strategies, supported by a well-regulated and thoughtfully-planned framework for investment funds.

AIF Distribution

Changes to EU law on the cross-border distribution of AIFs came into effect on 2 August 2021. How do you see these changes impacting Ireland?

Ross McCann, Head of Fund Services in Alter Domus Ireland: The recent change to the AIFMD's marketing passport regulation has led Ireland to become even more attractive as a fund domicile. Prior statutes prohibited non-AIFMD authorised managers from marketing their funds to potential investors, a restriction that many managers evaded by using reverse solicitation. This scenario arises where the manager and

investor discuss potential ideas for funds. The investor subsequently calls the manager and makes a proactive request for information about the new fund. The manager avoids marketing and the investor receives information so they can act upon a new fund. This practice is common among UK and US-based managers. To counter this, the new EU rules state that if a manager accepts a subscription from an investor they have spoken to within the past 18 months, it is considered marketing. Where it gets interesting for Ireland is that through AIFMD compliant products such as the ICAV and new Investment Limited Partnership, a pathway is available for fund managers desiring AIFM level access to the EU market. Going forward, that should mean more managers setting up EU AIFs and appointing EU authorized AIFMs, which can avail themselves of the AIFMD marketing passport to raise capital. It is now possible to set up Irish Partnerships and Irish AIFMs. US or UK managers can do this directly or use a third-party provider to do it for them. Once the fund is submitted to the Central Bank of Ireland, the regulator will issue a passport that allows the manager to market the fund across Europe. The alternative is to use the national placement regime in each country which is expensive, time-consuming, and burdensome.

Technology

With technology holding the potential to redefine the investment industry in the coming years, where should asset managers focus their digital investments to modernise their architecture? To what extent will open architecture platforms play a role in delivering fit for purpose applications and services?

Tadhg Young, Executive Vice President, Country Head – Ireland, State Street: With intensifying price competition and an increasingly complex regulatory environment, institutional investors are rethinking their operating models to remove complexity from their business and streamline their processes. Moreover, as markets quickly evolve, delivering real-time data and intelligence to investment managers is paramount for their ability to make informed and data-driven decisions. To stay competitive and successful, asset managers are already looking for complex asset servicing solutions that can give them the advantage of scale by harmonizing data, technology and services across the entire investment lifecycle.

At State Street, we believe that an open-architecture full front-to-back integrated platform for institutional and wealth management firms is the future of asset servicing. Our solution, State Street Alpha, manages the full spectrum of investment servicing operations, streamlining clients' day-to-day operations across their front, middle and back office. The platform's open-architecture design makes it compatible with third-party solutions, allowing clients to combine multiple internal and external data sources, increase data transparency and build open and easily extendable data models. As increasing flexibility and simplicity for clients is a direction most asset servicing companies are moving towards, fit for purpose technological solutions are the inevitable future of the industry.

“The new (cross-border distribution of AIFs) EU rules state that if a manager accepts a subscription from an investor they have spoken to within the past 18 months, it is considered marketing. Where it gets interesting for Ireland is that through AIFMD compliant products such as the ICAV and new Investment Limited Partnership, a pathway is available for fund managers desiring AIFM level access to the EU market.”

Outsourcing

What is the current status of the Proposed Central Bank Guidance on Outsourcing? What are the various implications for Fund Service Providers and their delegation arrangements?

Derbhil O’Riordan, Partner, Asset Management and Investment Funds, Dillon Eustace: The Central Bank of Ireland (Central Bank)’s consultation paper on outsourcing which contains draft Cross-Industry Guidance on Outsourcing (Draft Guidance) will, once finalised, apply to all financial service providers (FSPs) regulated by the Central Bank. The implications of the Draft Guidance will depend upon the type of FSP in question. The Central Bank received 21 responses in total to the consultation paper, and though most responses were received from the asset management industry, responses were also received from other interested

firms such as technology companies that are interested in outsourcing from an overall EU perspective. The Central Bank has indicated that it will meet with industry to discuss feedback before finalizing the Draft Guidance at a date later to be agreed.

In the meantime, FSPs should be aware that pursuant to the Draft Guidance, the concept of “delegation” and “outsourcing” are not considered by the Central Bank to be different concepts. Hence the requirements set out in the Draft Guidance will apply to both the “delegation” by FSPs of regulated activities as well as the “outsourcing” of unregulated activities.

The Draft Guidance, once finalised, should be complied with in a proportionate manner by FSPs, taking into account the relevant firm’s nature, scale and complexity of its business activities and the degree to which the firm engages in outsourcing.

Certain provisions of the Draft Guidance only apply to the outsourcing of activities or services which have been categorised as ‘critical’ or ‘important’, being functions which are necessary to perform ‘core business lines’ or ‘critical business functions’. FSPs should have a defined and documented methodology for determining whether a service or function is critical or important.

The Board and senior management is ultimately accountable for the effective oversight and management of outsourcing risk within its business. This includes ensuring that there are appropriate structures in place to facilitate comprehensive oversight of the outsourcing universe.

Boards will also need to ensure, inter alia:

- A designated individual, function and/or committee is appointed to ensure that outsourcing arrangements are overseen and reported on appropriately;
- A documented outsourcing strategy is in place;
- Adequate provisions are included in any outsourcing contract which describe the outsourced function, any financial obligations and the requirements which must be satisfied prior to any sub-delegation/sub-outsourcing taking place;



Derbhil O’Riordan

- Regular and comprehensive monitoring of outsourced services/functions are in place; and
- Timely notification to the Central Bank of any planned or material change to 'critical or important' outsourcing arrangement..

ETFs:

One trend in the market recently has been the conversion of traditional UCITS to ETPs/ETFs. Do you think that at the retail end, that traditional UCITS will remain as popular with investors, and will there be an increasing demand for low cost ETFs, real assets and other alternatives?

Frank Talsma, Director, Risk & Investment Analytics at RBC Investor & Services; Claire O'Brien, Director, Client Coverage at RBC Investor & Treasury Services: UCITS funds continue to thrive on high demand driven by brand recognition, a reputation for investor protection and sound risk management principles (e.g. enhanced liquidity risk management) and most importantly the growth potential through cross-border distribution.



Frank Talsma

Alternative funds (AIFMD) are also benefiting from this legacy. ESG and thematic funds are on the rise and we are witnessing funds repurpose themselves. SFDR is a driver here for fund ESG classification.

ETFs, real assets and other alternatives continue to grow and we do not believe they are a threat to UCITS and all asset classes can easily co-exist. In Ireland the majority of ETFs have been set up under the UCITS regime which would point to the investor confidence in the UCITS framework. Low cost passive funds have been on the rise for years but active management deep stock analysis and stock picking continues to add value and deliver performance.

The updated ILP framework now provides fund sponsors with access to a range of attractive features that match other private fund domiciles. The new and improved ILP fund structure includes a flexible limited partnership vehicle with an

additional layer of Central Bank of Ireland (CBI) regulation that provides an enhanced level of comfort and value for investors.

The variety of product in the market makes for a competitive environment and one which can meet the needs from the most sophisticated investor to retail. The regulatory environment continues to remain a focus and will continue to shape products, the rise in ESG funds in response to ESG rules such as SFDR, Taxonomy and CSDR is the latest trend to be embedded in all asset types.



Claire O'Brien

“Going forward, a key factor impacting the future popularity (or not) of traditional UCITS funds will be the fees associated with active management which remain significant. Figures published by ESMA in April 2021 highlighted that the pace of fee reduction for mutual fund UCITS has been slow.”

David Dillon, Director (Ireland), MJ Hudson: We have seen a dramatic growth in ETFs recently. This was often spoken about in the context of passive versus active investment and a move away from active investment due to a perceived lack of a cost benefit contribution and the failure of active Managers generally to deliver better than market performance. Anecdotally, I think certain Managers are now distinguishing themselves from the market and also different management styles are delivering different results not judged solely on absolute performance but also risk adjusted performance. I wonder if ETFs will be just one tool in the investment armoury of investors? We at MJ Hudson have noticed a significant number of equity strategies being established which suggests that the circumspection around active management might be coming to an end.

Meliosa O’Caoimh, Country Head – Ireland, Northern Trust: The last two years has proven a timely reminder of the old adage that the future is extremely hard

to predict! Northern Trust recently completed developments in its ETF business to help clients exploit the accelerating growth being seen in ETFs, and we have been pleased with client adoption to date. UCITS remains the biggest component of our business and we have seen significant interest in various alternative structures.

Our business planning continues to draw on intelligence from our clients, and feedback on their plans and ambitions. Our solutions evolve in conjunction with our clients’ requirements: we plan to be in the market wherever they need us to support their funds – and where their investors need them.

Donncha Morrissey, Head of Branch, Sparkasse Bank Malta plc Ireland

Branch: With European AUM at end Q2 2021 across UCITS and AIFs of approx €20tn and ETFs accounting for approx. €1.2tn of that figure, the overall UCITS product of €12tn continues to dominate the European fund landscape. Investment diversification will be sought via alternative products as



Donncha Morrissey

these products mature there will be increasing demand for them. The maturity point is key, the UCITS product is now 36 years old and the numbers outlined demonstrate its success, the first ETF in Europe is just over 20 years old, and the real asset space as a product is developing through the construct of the Irish Limited Partnership and recent introduction of specialist service providers to the market servicing that asset class. As we know UCITS is now in its fifth iteration and we can expect each of these alternative products will continue to grow, adapt and offer alternative cost models, returns and diversification of exposure to investors re their portfolio. Confidence in each of these products develops over time, some won’t want to be an early adopter and continue to reside in the comfort zone, this is natural and why the mature product will continue to succeed at the same time capital is deployed into the alternative asset classes and products.

Conor Joyce, Head of Transfer Agency, Ireland, IQ-EQ: In recent years there has been growing interest in ETF

funds amongst retail investors. Some of the key driving forces behind this demand include lower costs, better transparency and the superior liquidity of these passive-type strategies when compared to the traditional mutual fund UCITS. This increased investor demand has fed the trend of asset managers converting traditional mutual fund UCITS into passive ETFs.



Conor Joyce

Another emerging trend that may harm the demand for 'plain vanilla' UCITS funds is the increased demand for real asset-type strategies. These will potentially become more accessible to the average retail investor through tokenization and distributed ledger technology, and in many cases, also offer higher returns.

Traditional UCITS funds remain popular with many retail investors, however. They will likely remain the fund of choice for those who like actively managed products - the more successful of which can offer excellent returns and the highly regulated and safe nature of UCITS funds in comparison to some alternative strategies.

Going forward, a key factor impacting the future popularity (or not) of traditional UCITS funds will be the fees associated with active management which remain significant. Figures published by ESMA in April 2021 highlighted that the pace of fee reduction for mutual fund UCITS has been slow. For example, fees on one-year investments stood at 1.5% in 2018, only dropping to 1.4% in 2019 on average across asset classes. If fees remain higher than passive funds it seems safe to assume investor demand - followed by asset managers - will continue to move to more passive strategies.

Tadhg Young, Executive Vice President, Country Head – Ireland, State Street: In the US, we are seeing asset managers take advantage of the new "ETF Rule" approved by the SEC in 2019 which lowers the barriers of entry for them to launch ETFs in the US. There is also a capital gains tax exemption for ETFs and the underlying basket in-kind in the US which is an incentive for ETF investment. We have, therefore, seen a number of asset managers converting their mutual funds into ETFs in the US.

However, as there are no similar tax or

relief benefits to asset managers launching ETFs in Europe, we do not expect to see the same level of conversions from mutual funds to ETFs in this region. The majority of investment in European ETFs is still through institutional investors which is the opposite of what is seen in the US with retail investors representing over 60% of the investor pool. There will always be a strong appetite in Europe for traditional mutual funds for retail investors based on track record.

It is true, however, that the level of ETF growth in Europe continues to increase on an annual basis with investment in ETFs in the whole of 2020 (\$120bn) being surpassed by August of 2021 (\$136bn). As investors continue to move their money from more expensive traditional mutual funds to cheaper ETFs offering similar exposures, we are seeing the growth of the overall ETF market with a 10 year CAGR of 15.2%. ETFs are being used as building blocks for model portfolios, and are also being included in hedge portfolios and other investment products to gain exposure to a wide range of assets with one trade.

Due to continued education of the retail investor market on ETFs and an increase in retail managing their own money, we will continue to see the shift to ETFs increase as time goes on.

Fund transfer process

Speeding up the fund transfer process across Europe and the UK is fast becoming the focus of regulators and fund firms as better investor outcomes become increasingly important. A survey published last month (by Calastone) of 32 leading fund managers and distributors across Europe and the UK found fund transfers delays are common place and unnecessary. Many firms are searching for ways to overcome the need for manual processing. The majority of firms cite connectivity and standardisation as the major issues. Can you comment?

Tadhg Young, Executive Vice President, Country Head – Ireland, State Street: Clearly, there is no easy solution to the long standing issue of delays in the fund transfer process – had it been the case that there was, the issue would have been resolved by now. Instead, many of the counterparties involved continue to find ways to address the issue, and to take steps toward a more automated and digitized process. And perhaps herein lies the issue....the multiple parties working on it,

independently, rather than focussing on an industry-wide solution.

"We at MJ Hudson have noticed a significant number of equity strategies being established which suggests that the circumspection around active management might be coming to an end."

We are closely monitoring the advancements in the automation and standardisation of the asset transfer process with the aim of implementing the most up-to-date practices in our day-to-day operations. We believe that the funds industry at large would greatly benefit from more unified faster and less resource-intensive fund transfer solutions that would allow to scale the business and offer a higher quality service to clients. The Calastone report gives a glimmer of hope that steps to combine the will and brain powers of the interested parties are underway and that progress is being made.

David Dillon, Director (Ireland), MJ Hudson: Delays are a frustration, which are often due to regulatory and procedural steps which

are not consistent from jurisdiction to jurisdiction. In this respect, there would appear to be a lack of enthusiasm for simplifying the process in the relevant

jurisdictions. However, very often there are other factors such as tax events triggered by the conversion and obligations to investors which can be jurisdictionally specific.



David Dillon

Conor Joyce, Head of Transfer Agency, Ireland, IQ-EQ: Unfortunately, the length of time required to process fund transfers remains stubbornly high within the funds industry. While Straight-Through Processing (STP) percentage rates within the transfer agency process are now normally in the high 90s range, the fund transfers process remains quite manual. The question is why this is still the case? One major factor cited by firms is the divergence in systems between counterparties, where the lack of

compatibility means they often return to the ‘tried and tested’ manual solution. Another factor is that the firm on one side of the transfer may not have an automated solution in place, meaning providers with an automated solution are unable to utilize it in some instances.

“One of the most valuable lessons learnt during the pandemic was the crucial role of middle managers in integrating D&I practices in day-to-day operations across the entire organization.”

There continue to be compelling reasons for firms to further automate the fund transfers process, however. The sharp focus of regulators on protecting investor rights, value for money and improving services are important factors for firms to consider when maintaining a costly manual process. There is an increased risk of errors associated with manual key entry. Additionally, issues such as the circulation of large amounts of paper instructions, additional staffing costs, missing post and environmental concerns should all accelerate the automation process over the coming years.

Diversity and Inclusion

Traditional activities to foster diversity, equity and inclusion usually assume that people work together in the same physical space. COVID-19 crisis, however, challenged that assumption forcing companies across the globe to find new ways to create inclusive and engaging virtual/hybrid working environment. Drawing on the experiences from your organization, in what way has the virtual work environment impacted diversity and inclusion efforts and what has proven successful in creating a diverse and inclusive work environment during the COVID-19 crisis?

Tadhg Young, Executive Vice President, Country Head – Ireland, State Street: The COVID-19 pandemic has clearly presented companies across the globe with unprecedented challenges to maintain a diverse and inclusive work environment, but it has also proved beyond any doubt that these values today are more important than ever. The sudden stop to in person, face-to-face interactions in a professional environment which forced all of us to

virtual communication has, arguably, proven to be an intense yet in many aspects positive learning curve on how to create an engaging work environment.

One of the most valuable lessons learnt during the pandemic was the crucial role of middle managers in integrating D&I practices in day-to-day operations across the entire organization. They have very strong influence over the employee experience at various stages of the hire-to-retain cycle, including hiring, deployment, career development, promotion, mentoring, rewards, and performance evaluation. At all of these stages middle managers have a unique opportunity to reach individual employees and smaller employee groups to create sense of belonging and promote company values.

The digital format of employee meetings was yet another positive discovery of the pandemic. The ability to dial-in to employee events has increased the overall participation and engagement across the organization. The limitation of physical space, the possibility to listen to the recording of the event as well as different options to engage via digital channels made employees more inclined to actively participate in company events, which was critical to the overall sense of inclusion in those challenging times. The hybrid format of how employees work is definitely here to stay with us in the post-COVID professional set-up.

Last but not least, the COVID-19 crisis made us appreciate the important work that the diversity and inclusion employee network does across the organization. In the moment of crisis, the company D&I ambassadors were the drivers of various engagement initiatives, catalysts of change but also the voice of different employee groups on how we as an organization must prioritize the health and well-being of all employees in difficult times. The ingenuity, passion and the ability for the D&I employee network to come together made it easier for all of us to face the challenges of the virtual-only work environment.

ESG

‘Greenwashing’, and new regulatory requirements and references to ESG – e.g. at EU level are continually developing. What are your overall observations on the trends that the asset management industry must address most urgently for the coming twelve months?

Conor Joyce, Head of Transfer Agency, Ireland, IQ-EQ: Mass societal change and a new generation of socially

aware investors has seen demand for ESG and climate-themed funds explode in recent years. Traditionally ESG and green-themed funds were seen as a niche product offering.

However, escalating climate issues combined with a global pandemic have changed this. Irish managers now see that sustainable & responsible investing



Conor Joyce

across all asset classes needs to become a fundamental element of their investment approach.

The EU has been working to set an industry standard with the creation of a sustainable finance framework. ‘Level 1’ of The Sustainable Finance Disclosure Regulation (SFDR) was introduced in March 2021, which imposes mandatory ESG disclosure obligations for the asset management industry. The application of the more detailed Level 2 requirements (SFDR RTS) has been deferred to July 2022.

“All managers will need to address how they will meet these current and future requirements from a framework, systems and data perspective. Within financial organisations, the gaps, as well as the opportunities, will need to be identified and managers must adapt and improve their investment and operational processes accordingly.”

Clear, legal definitions on sustainability such as this will make greenwashing within the industry a lot more difficult. Fund Management Companies must comply with detailed pre-contractual and additional annual reporting disclosures and make these disclosures in the mandatory templates. These enhanced regulations will benefit all stakeholders, including Asset Managers who are truly committed to a long-term environmental and socially conscious business model.

Proper analysis and enhanced due diligence must be incorporated by firms and managers to ensure that this growing demand can be met without compromise.

Financial products purporting to be sustainable or ethical but which in reality do not meet the standards will be detrimental to the industry. We need to see clear and comparable sustainable information to allow investors to make genuinely sustainable investment choices. All managers will need to address how they will meet these current and future requirements from a framework, systems and data perspective. Within financial organisations, the gaps, as well as the opportunities, will need to be identified and managers must adapt and improve their investment and operational processes accordingly.

According to a recent ILIM report, 94% of Irish asset managers now have Responsible Investment policies in place. In order for the industry here in Ireland to thrive and be at the forefront of the ESG revolution we need to see the elimination of greenwash and ensure the proper procedures are in place. All players within the Irish Funds Industry need to be proactive in their adherence to current and future regulations to achieve this.

Derbhil O’Riordan, Partner, Asset Management and Investment Funds, Dillon Eustace: The dramatic move to implementation of ESG policies, and the growth of “green” funds in the past 18 months, has been driven not just by legislation, but, rapidly, by investor appetite. A Bloomberg Opinion piece dated 29 October 2021 summed up the asset management position succinctly with the title “Fund Managers Live on Earth Too, and Seem to Like It”.

COP 26 is generating much discussion on how the asset management industry and capital markets are pivoting towards green investment driven by investor sentiment and shareholder activity. At the end of the second day of the conference, more than 450 financial institutions in 45 countries signed up to a coordinated pledge to a key goal in limiting greenhouse gas emissions that will incorporate carbon emissions into their investment decisions.

The European Commission launched its Sustainable Finance Action Plan in March 2018. Legislation saw the requirement for funds to self-designate, from March 2021, as Article 6 (being funds not integrating any kind of sustainability into the investment process); Article 8 (being “light green” funds promoting environmental and social characteristics); or Article 9 (being “dark green” funds targeting sustainable investments). March 2021 saw the vast majority of in-scope funds choosing to adopt an Article 6 designation, motivated in part by a need to avoid accusations of

greenwashing, and in part by lack of reliable data available to meet Article 8 and Article 9 reporting requirements.

The EU rules around ESG implementation for funds have slowly been clarified, and this, together with the rapid increase in investor appetite for green investments, has precipitated a large number of funds previously designated as Article 6 preparing to convert to an Article 8 designation.

The former governor of the Bank of England, Mark Carney, speaking as part of the second finance session at COP 26, stated that the finance industry needs to introduce rigorous climate stress testing, and the introduction of frameworks to handle stranded assets responsibly. European funds, and in particular those designated as Article 8 and Article 9 funds, will for the time being be focused on implementing the existing and forthcoming ESG legislative framework requiring them to integrate sustainability risks into their investment decision processes, organisational structure and risk management systems and to provide periodic investor reporting in a form prescribed by the European Supervisory Authorities’ regulatory technical standards.

Niamh Ryan, Partner, Simmons & Simmons: The trends and focus from regulators globally is transparency and disclosure to investors

which is not limited to ESG. It is a challenge for the asset management industry to comply with an ever-evolving regulatory landscape while also continuing with their day-to-day business. As things currently stand, I would say the final Regulatory Technical Standards for SFDR and Taxonomy will need focus from firms. Although the timing as to when they will take effect is July 2022, there is a lot of detail in those requirements which will need consideration and planning for asset management firms looking to promote products which have sustainability themes and objectives. Asset managers also need to be consistent in their messaging with regard to ESG to ensure that they are actually doing what they say they are doing. Another trend which is not related to ESG but is on the same theme of transparency and disclosure is the focus from ESMA and



Niamh Ryan

the regulators on fees paid by shareholders and value for money for shareholders. Fees being charged need to be transparent and appropriate for investors and the Central Bank is increasingly focused on the fees being paid by shareholders and how those fees are disclosed in fund documentation.

Meliosa O’Caoimh, Country Head – Ireland, Northern Trust: We see a dual approach to ESG in our role as asset servicer. Firstly, there is supporting them with regulatory obligations, helping our clients review and comply with new requirements, for example the EU’s sustainability-related disclosure requirements for financial services. We expect the ESG-related aspects of regulatory regimes to evolve and to be a constant feature of client-facing regulatory discussions over many years. We also welcome the clarity of some definitions coming our way.

Secondly, there is a behavioural question. I believe that the longer term issues of climate change cannot be solved without some regulation, but equally, as citizens, we cannot delegate our collective and individual obligations to regulators. Our own individual decisions will drive the success of the ESG agenda - and those decisions in household budgets over time should influence businesses which in turn should influence investment behaviours.

Frank Talsma, Director, Risk & Investment Analytics at RBC Investor & Services: ESG has rapidly become one of the biggest themes in the fund industry and now pops up everywhere in conversations with clients, suppliers and industry peers. ESG is coming of age and is making its way from a front-office investment focus to the post-trade oversight and regulatory compliance space. Given its transversal nature, ESG must be addressed across the investment value chain from front-to-back.



Frank Talsma

The European Union is at the center of ESG rule making with a goal to create clarity around what is to be considered as ESG (and what not) and to impose common reporting standards (Taxonomy and SFDR). This unfolding regulatory package is a tailwind for the industry to review ESG policies and revamp data

analytics and reporting capabilities as investors face significant challenges in comparing ESG products and making informed decisions.

In addition, we are witnessing signs of what can be considered as the beginning of a market backlash on ESG investing, highlighting the need to substantiate ESG claims with data and fact. Solutions for independent validation of fund ESG strategies based on independent data sources will become a valuable tool in a market driven by reputation and trust.

Managers basically need to justify that funds that promote a sustainability objective “do what is says on the tin” through detailed reporting and standardized disclosures in terms of how ESG criteria are integrated in the investment decision process. Further, adhering to leading international frameworks like the SASB and TCFD, along with historical trend analysis and peer group comparisons will become increasingly important. Ultimately the challenge is to evidence how funds are contributing towards ESG goals like decarbonization.

ESG will remain an area of focus for product development in the years to come and practices will evolve from standard activities like assets screening, data & analytics and regulatory reporting, to ultimately handling ESG in a comprehensive standardized and fully transparent way.

Tadhg Young, Executive Vice President, Country Head – Ireland, State Street: Environmental, social and governance (ESG) integration underpins most, if not all, debates about the future of the asset

management industry. This aligns with broader commentary on stakeholder capitalism, new forms of corporate governance and an understanding of corporate purpose. As custodians of the assets our clients entrust to us, we have seen a particular surge in sustainability practices, policies, procedures and disclosures across the asset management space over the past year. Regulation has certainly been a driver in the European Union, but, arguably, the health crisis that continues to rampage and manifest globally is a contributing factor as well.



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Central banks, policymakers, investors, companies and other stakeholders increasingly consider that environmental and societal related issues can pose a systemic risk to the global financial system. That in itself is a notable trend: a shift in focus from climate change to the full spectrum of sustainability risks and the EU already looking to extend its green taxonomy and disclosure requirements to social issues.

The role of sustainability factors in investment approaches are vastly more sophisticated today than several years ago, and broadly fall into three categories:

1. Those that are designed to generate a positive social and/or environmental impact and capitalise on a particular set of ESG goals first and foremost above other investment considerations (“impact investing”);
2. Those that explicitly capture the financial risks and opportunities presented by research of sustainability materiality to the risk and return profile of an investment; and
3. Those that deliberately ignore any sustainability considerations and exclude consideration of such factors in the investment process.

A clear and comprehensive understanding of these distinctions between the use of sustainability factors in investment approaches is critical – notably, impact investing focuses on a specific sustainability “outcome” whereas ESG integration may be comprised of various gradients that legitimately contribute to the overall sustainability transition. In view of the evolving EU regulatory landscape, asset managers, service providers, companies, supervisors, and other stakeholders urgently need to contend with varying definitions of an environmentally-sustainable investment, otherwise face increasing scrutiny around allegations of so-called greenwashing. Common global standards underpinning sustainability investing will be important in mitigating these concerns.

Ross McCann, Head of Fund Services in Alter Domus Ireland: Clearly, investor demand has been driving capital towards green and sustainable investments in a major way over the last few years. Managers have responded accordingly with fund strategies aimed at capturing this investor appetite. Disclosure, reporting, and governance standards have struggled to catch up, and in their absence, a broad spectrum of self-defined measurements and KPIs have emerged, leading to poor transparency for investors and the rise of

‘Greenwashing.’ National policies, international agreements, and action plans such as the EU Sustainable Finance Action Plan on tackling climate change are now increasingly feeding into major waves of new legislation and disclosure requirements. The incoming EU Sustainable Finance Disclosure Regulation (SFDR) is introducing Regulatory Technical Standards (RTS) for managers and goes some way to ensuring transparency for investors. Given that the RTS becomes applicable at the beginning of 2022 along with certain elements of EU Taxonomy Regulation, managers see a tsunami of new requirements coming their way. Implementation of these standards will be their main focus, particularly over the next 12 months. As with all major new disclosures and reporting requirements and in the absence of a single international standard, many managers will struggle with this implementation without external expertise and support. This has created an opportunity for advisors, with most financial service providers and consulting firms already offering various support services. There is also significant industry collaboration, such as a joint effort among larger managers to create a common ESG scorecard.



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Regulation

With PCF regulations (regarding Pre Approved Functions, notably in the asset management sphere) just issued by the Central Bank in the last month, and SEAR legislation in the works, what priorities are and should the industry be making to address the future requirements of the industry?

Ross McCann, Head of Fund Services in Alter Domus Ireland: The SEAR regime along with reforms to the current fitness, probity and enforcement process, represent significant steps in enhancing the Central Bank’s ability to hold individuals to account. Industry participants’ recent priorities will have been to assess and review these changes in terms of gap analysis and implications to their business models, moving through to developing

action plans for their senior management substance and hiring, governance, and HR processes. Once the required actions have been identified, the immediate focus will turn to implementation. The Central Bank already expects evidence of a thorough fitness and probity due diligence process and board participation in approving 'regulated' persons before submitting to the regulator for approval. Experience and expertise for roles are now being more closely scrutinized and challenged by the Central Bank as it becomes more evident where this has not been done adequately in advance of individual questionnaire (IQ) submission. It is certainly not in the industry's interests to see individuals fined and sanctioned to the point where the risks involved deter suitable candidates from taking such roles. Therefore, industry focus needs to be on providing support to individuals, focusing on role clarity, training, and professional development. Firms must ensure individuals are allocated adequate time, resources, and training to fulfil these roles to well-defined standards and have the structures in place for reporting both to the individuals and from the individuals through to the board. The industry must also continue to work closely with the Central Bank as a collaborative approach to implementation should ultimately be the most effective way of improving governance standards generally.

Conor Joyce, Head of Transfer Agency, Ireland, IQ-EQ: The Central Bank of Ireland (CBI) is driving best efforts to positively reform the culture and behaviour within regulated businesses. Under its supervision, we are now seeing a strong focus on the personal accountability of individuals working within these firms.



Conor Joyce

The changes to the PCF regime reflect this and provide insight into the Central Banks' view of the changing structure of the Irish financial services industry. Most scope firms will by now be familiar with performing a fitness and probity assessment to provide confirmation to the Central Bank that the assessment (and any resulting actions) have been completed within the specified timeframe.

In designing the Senior Executive Accountability Regime (SEAR) the CBI

has looked closely at individual accountability frameworks in other jurisdictions where similar regimes have been successfully introduced. This includes the United Kingdom, Australia, Hong Kong, Malaysia and Singapore.

“I believe that the longer term issues of climate change cannot be solved without some regulation, but equally, as citizens, we cannot delegate our collective and individual obligations to regulators. Our own individual decisions will drive the success of the ESG agenda.”

The CBI has publicly stated that SEAR will closely follow the approach of the UK Senior Managers and Certification Regime. In the first instance, regulated firms should be looking to the most recent publications surrounding the evaluation of the regime.

In addition, they should be looking at the supporting conclusions and assessments of whether the UK regime has delivered against its original objectives. This can then be used as a roadmap to implement a project plan and ensure the firm and its senior executives are prepared for the introduction of SEAR.

Meliosa O’Caoimh, Country Head – Ireland, Northern Trust: Ireland continues to be a well-regulated domicile, based in the EU and playing a leading role in the evolution of its framework for investment funds. As one of its leading service providers, we at Northern Trust also recognise the importance of a robust regulatory framework, and equally, will continue to use our influence via industry bodies to make the case for sensible regulation and effective, pragmatic implementation.

As we look forward beyond the short term, we see the pace of change becoming ever quicker. We can today invest in stocks via simple online portals and by touching a couple of buttons – and there is a clear potential for the wider world of collective investing following suit through

the widespread digitalisation of the funds industry. That will require a refreshed approach to a whole range of investment management activities, including the regulatory environment in which they are carried out.

David Petiteville, Director, Regulatory Solutions at RBC Investor & Treasury Services: In 2021, two legislative texts relative to senior executive appointment and accountability have seen momentum.

First, on July 27, 2021, the Department of Finance released the General Scheme of the Central Bank (Individual Accountability Framework) Bill 2021.

Second, on September 22, 2021, the Central Bank of Ireland (Central Bank) issued a Notice of Intention to propose amendments to its Pre-Approval Controlled Functions (PCF) list.



David Petiteville

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SEAR does not come as a surprise since it has been in discussion since 2018. While it is not expected to see the text enforced before 12 to 18 months, the impacted firms will prepare before the final release of the text. The new requirements will affect the control environment, the governance structure and how the companies will demonstrate that they took reasonable steps. While conducting their impact assessment, companies must consider the CBI's expectations on Fitness and Probity compliance, as outlined in its Dear CEO letters of April 2019 and November 2020. Attention to the understanding and the documenting of the governance structure will be essential, and it will involve looking at the roles and responsibilities of Senior Managers. An open look at outsourced control environment and third-party risk management has to be considered. Companies will have to

establish frameworks and governance to demonstrate that ‘reasonable steps’ are taken in a potential regulatory breach.

“An open look at outsources control environment and third-party risk management has to be considered. Companies will have to establish frameworks and governance to demonstrate that ‘reasonable steps’ are taken in a potential regulatory breach.”

Concerning the PCF regulations, all Irish-regulated financial service providers (RFSPs) must obtain Central Bank approval before appointing a person to a PCF role. The Central Bank will hold the appointing RFSP responsible for any non-compliance with this obligation. Two notable changes are:

- The role of Head of Compliance with responsibility for Anti-Money Laundering and Counter-Terrorist Financing Legislation will be replaced by two dedicated functions, Head of Compliance and Head of Anti-Money Laundering, and Counter-Terrorist Financing.
- The role of Head of Investments will be discontinued, and it will default to Chief Investment Officer.

RFSPs that are required to submit a confirmation to the Central Bank will have six weeks to do so from when the revised Regulations come into effect. For non-executive directors, the default will be to re-designate all non-executive directors as non-independent. RFSPs will be required to notify the Central Bank to re-designate relevant individuals as independent.

Tadhg Young, Executive Vice President, Country Head – Ireland, State Street: investors, Ireland’s legal and regulatory environment remains aligned with the global investment management industry. There needs to be continued open dialogue and continual engagement with policy makers, as the Exchequer benefits greatly from the direct and indirect financial contribution from Ireland’s funds industry.

Governance has been a key theme throughout the Central Bank’s supervisory and thematic work and this is reflected in their work on changes to PCFs, the proposed Individual Accountability Framework, the role of strong governance in both the oversight of outsourcing and

operational resiliency proposals and their findings on the implementation of CP 86 as outlined in their industry letter in October 2020. While a strong governance culture is critical to the continued success of the funds industry in Ireland it is important that those requirements remain proportionate and aligned with other jurisdictions.

Both outsourcing and operational resiliency have been areas of attention for international regulators over the last number of years so it is not unexpected that the Central Bank would focus their attention in these areas. The anticipated finalisation of the Central Bank Guidelines on Outsourcing Oversight and Operational Resilience in the coming months will mean industry will be potentially faced with the implementation of both frameworks in parallel.

Derbhil O’Riordan, Partner, Asset Management and Investment Funds, Dillon Eustace: SEAR, which is to be implemented as part of the General

Scheme of the Central Bank (Individual Accountability Framework) Bill 2021 (the “Scheme”) will mandate regulated financial services providers (RFSP)’s to improve their internal processes by clarifying the roles of their senior executive functions (SEFs).

The list of SEFs is aligned to the list of pre-approval controlled functions (PCFs) under the CBI’s Fitness and Probity regime.

SFSPs in scope of the initial application of SEAR should prepare to require each RSFP to carry out the following in respect of each SEF:

- determine those responsibilities that are inherent to each SEF;
- prescribe responsibilities allocated to individuals carrying out SEFs;
- identify and allocate other responsibilities by RFSPs to relevant SEFs;



Tadhg Young

- impose requirements on RFSPs to provide a statement of responsibility to the CBI for SEFs setting out their role and areas of responsibility; and
- impose requirements on RFSPs to produce a comprehensive management responsibility map documenting key management and governance arrangements.

“The anticipated finalisation of the Central Bank Guidelines on Outsourcing Oversight and Operational Resilience in the coming months will mean industry will be potentially faced with the implementation of both frameworks in parallel.”

A legal duty of care is imposed on individuals while performing SEFs within regulated entities. Such SEFs are required “to take reasonable steps to avoid their firm committing, or continuing to commit, a ‘prescribed contravention’ in relation to the areas of the business for which they are individually responsible.” The CBI will be able to take enforcement action and impose administrative sanctions on individuals who breach the duty of responsibility.

Breaches of the various conduct standards provided will be a “prescribed contravention” and will be enforceable against the RSFP/ the relevant CF/ PCF/persons in senior roles, as applicable.

The Scheme also serves to strengthen the existing obligations on firms in relation to the fitness and probity of their key personnel under the CBI’s Fitness and Probity Regime. An RSFP will be required to certify that it is satisfied that any individual performing a PCF/ CF role meets the requirements under this regime. Once implemented, the Scheme provides that the CBI can investigate individuals who the CBI suspects pose a danger to consumers or the financial system, irrespective of whether they continue to perform a CF role at the time when an investigation is being commenced.

Although implementation of the Scheme is not expected before Q3 2022, in-scope RFSPs should ensure preparedness for meeting the standards imposed by the Scheme once implemented including preparing the necessary organisational responsibility maps and individual statements of responsibility and addressing any consequential internal policy or contractual considerations that arise.



Derbhil O’Riordan



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