BACK TO THE FUTURE IN IRELAND AND LUXEMBOURG

Peter Stapleton
Partner, Dublin
Maples Group
Email Peter Stapleton

Johan Terblanche
Managing Partner, Luxembourg
Maples Group
Email Johan Terblanche

The evolution of the Irish and Luxembourg fund industries demonstrates that 30 years in the ever-changing world of alternative funds is a very long time.

As the Maples Group has large and well-established legal, fund, fiduciary and other businesses in both jurisdictions, we have had front-row seats for the relentless expansion of two of the EU's leading fund domiciles. We reflect here on that journey and consider future opportunities.

Looking back 30 years, Ireland had only just implemented the UCITS regime and introduced Europe's first regulated product for alternative funds. Today, Irish funds comprise over €3 trillion of assets under management ("AUM") in more than 8,000 products. Ireland has also become a truly global fund centre, administering over €5 trillion of assets, including more than 40% of the world's hedge funds[1].

Simultaneously, momentum was gathering in the Luxembourg UCITS and alternative space following the introduction of both the UCITS and Part II UCI regimes in 1988. Since then, the Luxembourg industry has flourished and today, AUM in regulated Luxembourg funds exceeds €4.6 trillion[2] .

With the number of €1 billion+ private equity funds doubling in the last year[3] and private debt funds' AUM increasing by 40% in two years[4] , growth in the alternative space is set to continue on this upward trajectory.

The Growth Story So Far

If we consider the exponential growth of both countries' funds industries, common themes emerge.

Government Support

Firstly, both have consistently benefitted from strong, reliable government support and investment, with continuous legislative and regulatory initiatives to accommodate the changing needs of the alternative funds market.

Recent Irish examples include the Central Bank of Ireland's 24-hour enhanced approval process for AIFs, the introduction of the extremely successful ICAV vehicle, and the incoming government's stated priority to complete the much-awaited reform of the investment limited partnership ("ILP").

In Luxembourg, growth has been facilitated primarily by the introduction of two new types of limited partnership (SCSp and SCS), which have become the legal vehicles of choice for Luxembourg AIFs, as well as the RAIF regime, which has proved extremely popular largely thanks to its impressive time-to-market efficiencies and full AIFMD compliance.

1 Irish Funds
2 ALFI
3 ALFI Private Equity & Venture Capital Fund Survey, November 2019
4 ALFI Private Debt Fund Survey, November 2019

EU Single Market Access

Secondly, both countries have taken full advantage of the opportunities presented by the EU single market.

The initial period of growth owed much to the development and global success of the UCITS regime as the gold standard for regulated liquid products.

Later, we saw Ireland and Luxembourg develop as domiciles for hedge, private credit, PE, infrastructure and RE products: a trend which has gained in momentum since the implementation of AIFMD.

More recently in the context of the UK's departure from the EU, both countries have seen a significant influx of asset managers building local management companies and investment firms to ensure continuity of EU financial service passport rights.

Economic / Political Trends

Macroeconomic and geopolitical issues have also played a part. The 2008 global financial crisis, the Madoff scandal and the liquidity challenges faced by many funds created a preference among many European institutional investors for the additional protections offered by EU regulated products.

That trend has continued in the recent low-yield market environment, with growing allocations by EU pension funds, insurance companies and other institutional investors to alternative / illiquid EU products.

We have also seen an increase in the popularity of unregulated AIFs, which, depending on the product, can represent a significant portion of the AIF population in Luxembourg and Ireland.

That is in turn part of the wider trend of using Luxembourg and Irish vehicles as parallel funds or within global master-feeder structures, as managers have sought to complement their traditional Cayman Islands, British Virgin Islands and other non-EU product offerings.

Finally, the stable and transparent tax regimes offered by both countries, together with their wide networks of double tax treaties, have recently become even more attractive in the context of global tax initiatives such as BEPS and ATAD.

Upwards and onwards?

Turning to the future, we expect the same three themes to continue to bolster the Irish and Luxembourg fund industries.

Government Support

Continued government investment and promotion is assured in the coming years, particularly given the sudden need to encourage new sources of economic activity following the 2020 pandemic.

One clear example is sustainability. 30 years from now will mark the 2050 European Green Deal target for the EU to become climate-neutral, and both Ireland and Luxembourg are committed to being at the forefront of sustainable finance.

Ireland was the first country to fully divest from fossil fuels; we have already seen the issue of a €3 billion State-backed green bond and a huge increase in the number of Irish ESG product launches; and the government has put sustainability at the core of its Ireland for Finance 2025 strategy.

Adam Donoghue
Partner, London
Maples Group
Email Adam Donoghue

Michelle Barry
Associate, Luxembourg
Maples Group
Email Michelle Barry

In Luxembourg, LuxFLAG an independent finance labelling agency providing ESG, sustainability and climate finance certification was established several years ago, while the launch of the dedicated Luxembourg Green Exchange and the sizeable and rapidly growing number of responsible investing funds domiciled in Luxembourg is further evidence of a thriving sector.

EU Single Market Access

We expect the opportunities presented by the EU single market to expand rather than contract. The EU's action plan to reignite the Capital Markets Union initiative offers much promise.

The scheduled review of AIFMD and the implementation of the agreed changes affecting the cross-border distribution of funds should reduce Member State gold-plating, red-tape, and further enhance the appeal of Irish and Luxembourg UCITS and AIFs for cross-border management and marketing.

We also expect that a new wave of long-term investment products can be facilitated through the scheduled review and enhancement of the EuVeCa, EuSEF and ELTIF regimes, which have gained little market traction to date.

Economic / Political Trends

Finally, we believe that geopolitics will continue to be a factor. Whether or not there is a helpful UK-EU deal on financial services, there is a clear indication that Ireland and Luxembourg will continue to expand from mere fund domiciles into wider asset management hubs.

We also expect that the predicted growth of China, India and other emerging Asian economies in the coming decades present an opportunity for both locations to ensure that they remain Asia's gateways to Europe.

Our global experience across the Maples Group is that there is no 'one size fits all' solution to fund structuring. There will always be a need for the familiarity, flexibility, speed to market and operational efficiency offered by the leading Caribbean and Channel Islands fund centres.

Equally, we believe that the positions of Luxembourg and Ireland as the leading EU fund centres are secure and will continue to gain in strength.

Whatever the future holds, given the vital role that alternative funds have played in the development of both countries as truly global financial centres, we can be confident that both will remain nimble and proactive in continuing to adapt to industry and investor needs.

This article is intended to provide only general information for the clients and professional contacts of the legal services division of the Maples Group. It does not purport to be comprehensive or to render legal advice.