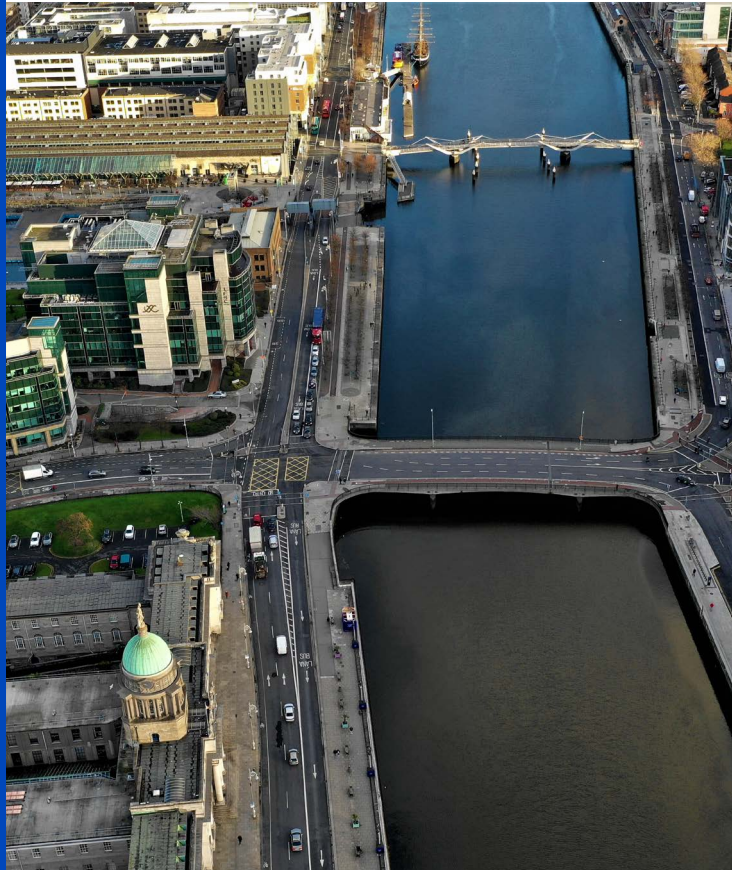


IRELAND

# Qualifying Investor Alternative Investment Fund ICAV



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# Executive summary of Walkers

Walkers is a leading global finance centre law firm with ten offices worldwide. Walkers provides legal, corporate and fiduciary services to investment funds, investment fund managers, financial institutions, capital markets participants, FORTUNE 100 and FTSE 100 global corporations and middlemarket companies from our offices in Bermuda, the British Virgin Islands, the Cayman Islands, Dubai, Guernsey, Hong Kong, Ireland, Jersey, London and Singapore.

## Walkers in Ireland

Walkers' Irish office provides integrated Irish legal, tax and listing services to our domestic and international client base and has a strong presence in Dublin.

We focus on excelling in specific practice areas only. We do not take on instructions for areas which are outside

our expertise. Walkers are a "full service" law firm for financial services clients. Within our Dublin office we have the following core financial services practice areas:

- Asset finance
- Asset management & investment funds
- Corporate & commercial
- Derivatives
- Employment
- Finance & capital markets
- Insolvency & dispute resolution
- Listings (debt)
- Real estate
- Regulatory & compliance
- Taxation
- Walkers Professional Services

Our strategy is to be a market-leading niche corporate and financial services firm. Our senior lawyers have been recommended in the main legal rankings including:

Chambers and Partners  
Global Leading Firm  
– 2024

**Chambers**  
AND PARTNERS

Chambers and Partners  
Europe Leading Firm  
– 2024

**Chambers**  
AND PARTNERS

The Legal 500  
Top Tier Firm – 2024

**LEGAL**  
500  
E M E A

IFLR 1000  
Top Tier Firm  
– 2023

**IFLR**  
1000

Finance Dublin  
Deals of the year  
– 2023

**FINANCE DUBLIN.com**

Expert Guides  
Women in Business Law  
– 2023

**EXPERTGUIDES**

Preqin Top Hedge Fund  
Law Firm  
– 2023

**@preqin**

**ITR**

International Tax  
Review

**WWL**

Who's Who Legal

In addition to our own client advisories and bulletins, we regularly contribute to external publications with market insight and updates including:

**FINANCE DUBLIN.com**

THOMSON REUTERS  
**PRACTICAL LAW**

**Biz Plus.ie**

**taxnotes**

**SCI**  
Leading Structured Finance Information

**LEGAL**  
BUSINESS

**HFMWEEK**

PEI  
PRIVATE EQUITY  
INTERNATIONAL

**LAWYER**  
MONTHLY

**hedgeweek**

**THE IRISH TIMES**

# Across the globe. Around the clock.



Walkers combines leading expertise and experience in Irish law, with the international strength of a global law firm. Our technical ability and wealth of experience across 10 jurisdictions, draws on the knowledge and expertise of our partners internationally, each of whom regularly provides global legal solutions to FORTUNE 100 and FTSE 100 global corporations and financial institutions, and differentiates Walkers as a leading international law firm from our domestic competitors.

Our Dublin office is closely integrated with our other offices, where, in addition to Irish law, we also advise on Cayman Islands, Bermuda, British Virgin Islands (BVI), Dubai International Financial Centre, Jersey and Guernsey law matters.

Our global presence means we are always accessible to our clients in all time zones.

## Strength in depth

Over 410+ lawyers worldwide and a total staff headcount of 1,161

## Culture of diversity

50 nationalities working across our 10 offices, offering our clients 24/7 support in multiple languages

## Innovative and award winning

Widely recognised as an innovative market leader and winner of numerous prestigious awards

## International presence

10 international offices and the ability to provide advice in 6 laws

## Market leading

Walkers is a global, integrated and market leading financial services law firm acting for leading financial institutions, FORTUNE 500 and FTSE 100 corporations

## Globally trusted

Acting as advisors to 85 of the top 100 global financial institutions

# Asset management and investment funds team

Walkers has one of the most experienced investment funds teams in the Irish market. Each team member has joined Walkers from top tier legal firms in Ireland or internationally. Our team also benefits from having obtained extensive in-house experience from leading asset management firms and investment fund service providers. Walkers also offer a suite of integrated services for our clients, providing Irish legal and tax advisory solutions as well as global corporate and regulatory services.

Our extensive legal and industry experience enables us to provide advice on all aspects of Irish investment funds including:

- fund structuring, establishment and ongoing management whether structured as an undertaking for collective investment in transferable securities (“UCITS”) or an alternative investment fund (“AIF”);

- establishment of fund service providers including alternative investment fund managers (“AIFMs”), UCITS management companies and Super ManCos (combined UCITS management companies and AIFMs) and Mega ManCos (an enhanced version of the SuperManCo, allowing for additional ‘MiFID top up’ permissions);
- asset management and investment funds regulation;
- fund restructurings and distressed funds;
- fund re-domiciliations;
- terminations and liquidations;
- financing arrangements;
- marketing and distribution; and
- ongoing legal, tax and regulatory advice.



**The team is easy to approach, with in-depth knowledge of the industry and local regulations.”**

— *Legal 500 EMEA*



**The funds team is exceptional in its deep understanding of the intricacies of asset management and investment funds.”**

— *Legal 500 EMEA*



**Clients say that the lawyers have a “depth of technical knowledge combined with business awareness.”**

— *Chambers Europe*

## Relevant transaction experience

Walkers has comprehensive experience in advising clients on all matters related to Irish investment funds as well as AIFMs, investment firms and other regulated financial service providers. Set out below are some examples of UCITS, qualifying investor alternative investment funds (“QIAIF”) and retail investor alternative investment funds (“RIAIF”) structures that we have led and other relevant experience:

- advising 2 of the top 5 largest Super ManCos in Ireland by AUM;
- advising global asset managers on the establishment of a wide range of alternative investment fund managers directive (“AIFMD”) passported QIAIF funds focused on a broad range of strategies including equity, property, infrastructure, fixed income and multi asset strategies as well as derivative overlay strategies and

quantitative based hedge fund strategies;

- advising a global asset manager with >US\$1 trillion AUM on the establishment of a credit opportunities fund involving Delaware and Cayman feeder funds and the separate establishment of a loan originating QIAIF (“L-QIAIF”);
- advising a UK asset manager on the establishment of a credit opportunities fund involving a US feeder fund;
- advising a number of US asset managers on the structuring and establishment of debt funds which invest primarily in loan assignments and participations;
- advising a large US credit manager on a closed-ended distressed debt fund established as a QIAIF with a US\$2 billion capital raise target which incorporated an Irish master fund and multiple feeder funds (including a US onshore feeder fund);

- advising Edmond de Rothschild Group on the migration of its Luxembourg based funds into Ireland as RIAIFs (US\$4 billion merger);
- advising a global student accommodation provider on the establishment of a range of Irish investment funds structures.
- advising a leading US hedge fund manager on the establishment and operation of an Irish property fund which invests in a range of retail assets;
- advising a Jersey investment manager on the establishment of an Irish real estate fund which invests in rental accommodation;
- advising leading assets managers in relation to the pre-contractual and annual financial statement disclosures of a range of ESG multi-manager funds and fund of funds falling within the scope of Article 8 and 9 of the Sustainable Finance Disclosure Regulation ("SFDR")
- Advising a number of investment firms and asset managers, more broadly in relation to their obligations under sustainability related amendments to the AIFMD, UCITS and MiFID II frameworks and the findings set out by the Central Bank of Ireland (the "Central Bank") in its industry letter relating to its supervisory expectations of regulated firms regarding climate and other ESG issues
- advising a number of US, Irish, UK, Dutch, Scandinavian, South American and South African firms on re-domiciliations and/or schemes of amalgamation transferring funds from other jurisdictions into Ireland, including a number of re-domiciliations from Cayman, Jersey and Guernsey to Ireland as QIAIFs, where Walkers co-ordinated the transactions between our Cayman, Jersey, Guernsey and Irish offices;
- advising a number of global asset managers in relation to successfully obtaining their AIFM authorisations from the Central Bank; and
- advising AIFMs on the passporting of their management company licenses into other EU jurisdictions.

### Regulatory engagement and experience

Our experience in advising clients on the establishment of a broad range of investment fund structures in Ireland and on their operations here has helped to create a strong working relationship with the Central Bank. Nicholas Blake-Knox was elected in 2022 for a three-year term to the Council of Irish Funds, the industry representative body for the Irish investment funds and asset management industry. A number of our team work closely with the Central Bank as current and previous members of various Irish Funds Steering and Working Groups including the UCITS Product Steering Group, the Legal and Regulatory Working Group, the ESG Policy, the Brexit Steering Group, the AIF Regulation & Innovation Working Group, the Tax

Working Groups, the AML Working Group, Private Assets Working Group and the Distribution Groups.

Members of the Walkers team have also been involved in engagement with the Central Bank in respect of policy formation and have also contributed to legislative proposals. We have represented clients in relation to PRISM inspections and other supervisory engagement processes. Members of our team have also represented the asset management industry at European level including in relation to ESMA consultations.

Walkers also has a dedicated Regulatory practice group which comprises a team of regulatory specialists who focus on a variety of regulatory matters outside of the core investment funds regulation and can provide specialist advice in areas such as MiFID, AML, GDPR and other specialised regulatory areas. The Regulatory team is one of the largest dedicated regulatory teams in the Dublin market. In relation to AML, a particular focus area of the Central Bank, one of the members of the Regulatory team has previously worked within the Central Bank leading a team responsible for AML inspections.

### Listing agent

We have an in-house Irish Stock Exchange listings department, meaning we can provide both legal and listing services at competitive rates.

### Company secretarial services

Walkers can provide high quality, responsive and cost-effective company secretarial services through its affiliate specialist corporate service provider, Walkers Professional Services ("WPS"). WPS operates a streamlined and professional service to meet our clients' deadlines and differentiate ourselves through a commitment to being highly responsive to our clients at all times. The team has extensive experience providing company secretarial services to a full range of entity types in the funds sector. Current clients range from large group structures to single sub-fund structures including, inter alia, MiFID firms, UCITS management companies, alternative investment managers and UCITS and AIFs established as public limited companies or ICAVs. WPS has a strong relationships with a broad range of fund service providers and independent non-executive directors across the industry and can ensure a smooth and seamless launch process or transition. WPS can apply its established and tested, industry leading procedures to ensure that a comprehensive agenda and board pack is prepared in an appropriate timeframe and accurate, comprehensive and timely minutes and matters arising are produced requiring minimal input during the review process. Working in close collaboration with our legal colleagues in Walkers, WPS ensures that corporate governance arrangements of all clients are conducted to the highest standards and ensuring responsiveness to the full ambit of



the agreed service offering.

Our company secretarial team will ensure that you will not only have a dedicated resource but also the added comfort of more than one point of contact to ensure that any requests are actioned in a timely manner. WPS is managed by Fiona de Lacy who leads a team with substantial corporate services and SPV management experience with significant expertise in providing company secretarial and accounting services. Anthony Finegan, Chartered Company Secretary, leads our company secretarial team and he brings extensive experience in the provision of company secretarial services to both regulated and unregulated entities.

We have set out below the scope of the company secretarial services that we can offer:

### Corporate compliance services

- Provision of Walkers Corporate Services (Ireland) Limited as named secretary of entities;
- Provision of the registered office for entities, including provision of state of the art facilities to host board meetings at the registered office including meeting rooms, telephone conference and video conference facilities;
- Maintain all statutory registers including the electronic register of directors and secretaries and register of subscriber shareholders in accordance with statutory obligations;
- Assist with the completion and filing of statutory notifications to the Companies Registration Office in respect of any post-registration changes to companies or the Central Bank in respect of ICAVs;
- Assist with the general meetings of entities, including ensuring that the annual general meeting is held or dispensed with within the prescribed statutory timeframes, which includes providing notice of such meetings, collating proxy forms and ensuring sufficient votes have been received to hold the meeting;
- Arrange for the appointment and resignation of directors; and
- Assist with the preparation of KYC documents for the entity.

Our Dublin office is closely integrated with our other offices, where, in addition to Irish law, we also advise on Cayman Islands, Bermuda, British Virgin Islands (BVI), Dubai International Financial Centre, Jersey and Guernsey law matters.

Our global presence means we are always accessible to our clients in all time zones.

### Board meeting support services

- Liaise with all service providers of the entity and the board of directors to schedule and diarise board meetings, usually for the entire calendar year in advance;
- Preparation and finalisation of board meeting agendas;
- Liaise with all service providers of the entity to ensure receipt of all necessary board materials in a timely manner;
- Collation and issue of soft copy board papers within pre-agreed timelines;
- Uploading and collation of electronic board papers on the chosen board paper platform or Walkers in-house portal and/or circulation of same via email to the directors;
- Provision of state of the art facilities to host board meetings at the registered office including meeting rooms, telephone conference and video conference facilities;
- Attendance at quarterly board meetings, ad hoc board meetings, the AGM and any EGMs;
- Preparation and circulation of detailed board minutes and matters arising on a timely basis; and
- Following up with parties responsible for matters arising to ensure that the board actions are appropriately addressed.

## Central bank portal administrator service

WPS can also offer a service to administer the Central Bank's online portal system (the "Central Bank Portal") by being appointed as system administrator ("System Administrator"). The following sets of the scope of Central Bank Portal System Administrator services that we can provide:

- Provision of a named individual to act as the Central Bank Portal System Administrator;
- Creation and deletion of user accounts for individuals, ensuring that appropriate level of access is granted to view, submit or sign-off on specific filings or communications;
- Ensuring that the appropriate delegations are in place or terminated for service providers in respect of necessary filings on the Central Bank Portal;

- Issuing reminders to individuals or service providers in a timely manner in respect of upcoming filings that need to be completed; and
- Provision of a Central Bank Portal reporting calendar to the Board to facilitate tracking of all filings and deadlines.

## Share trustee services

Fund entities will be required to maintain subscriber shares which will ensure a quorum for any general meetings of the shareholders that may be required or to pass resolutions during the liquidation process after all investors have been redeemed. If required, WPS can provide one/two nominee shareholders to hold the subscriber shares via affiliate specialist shareholder entities who will hold the shares under the terms of a declaration of trust.



# Walkers - your trusted ESG partner

## The EU sustainable finance framework

- Taxonomy regulation
- Benchmark regulation
- ESG integration into MiFID II
- EU Green Bond Standard
- Corporate Governance
- ESG credit ratings
- Sustainable finance disclosure regulation
- ESG integration into UCITS & AIFMD frameworks
- Corporate sustainability reporting directive
- EU financial products eco-label

Walkers has experience advising asset management and investment firms on the implementation of ESG requirements including under the SFDR, the Taxonomy Regulation and more recently the implementation of the regulatory technical standards under SFDR ("SFDR Level 2"). Our work has involved advising asset managers (including those who manage a number of ESG focused multi-manager funds and/or fund of funds) in relation to the completion of prescribed annexes required for the pre-contractual and annual financial statement disclosures for those products falling within the scope of Article 8 and 9 of SFDR. We have advised on specific elements of the ESG strategies of the relevant investment firm/asset manager, delegate investment managers and underlying fund managers to seek to ensure that those strategies cohesively align with the prescriptive pre-contractual and website disclosure requirements of SFDR Level 2. Such projects also take into consideration the ever-evolving guidance emanating from the European Commission, European Supervisory Authorities, ESMA, the Central Bank and other relevant guidance.

In order to complete the pre-contractual disclosures, we consider our client's proposals regarding its investment in "sustainable investments" or "promotion of ESG characteristics" in light of the available legislative requirements and associated guidance, as well as consideration of the principal adverse indicators provided for in Annex 1 of SFDR Level 2 at entity/product level. Accordingly, we are well placed to provide the very latest advice with respect to product classifications and associated investment due diligence/metrics in order to avail of those classifications.

In addition to product orientated ESG work, we further advise investment firms and asset managers, more broadly in relation to their obligations under sustainability related amendments to the AIFMD, UCITS and MIFID II frameworks and the findings set out by the Central Bank in its industry communications relating to its supervisory expectations in respect of regulated firms regarding climate and other ESG issues.

We are seeing an increase in the number of asset managers considering how to integrate ESG criteria in the investment strategies they employ for funds under management. Walkers has extensive experience advising on the impact that these initiatives will have on such asset managers and their investment funds. Should you wish to receive further information on our capacity to assist with the implications of the EU Sustainable Finance Framework on your business please request a copy of our Sustainable Finance brochure.



Walkers has produced an extensive advisory series on ESG matters impacting our clients.

- Ireland ESG Series - Part 1: Disclosures regulation
- Ireland ESG Series - Part 2: BMR amendment
- Ireland ESG Series - Part 3: Taxonomy regulations
- Ireland ESG Series - Part 4: Proposed amendments to UCITS and AIFMs
- Trends in sustainable and finance disclosures
- The rise of ESG and sustainable fund finance in Europe
- EU Sustainable Finance Package - June 2023
- ESAs Report on Greenwashing in the Financial Sector

## Ireland as a domicile

Ireland is a globally recognised jurisdiction in which to domicile investment funds. This reputation is in part thanks to the flexible and transparent attitude of the Irish regulator, the Central Bank. The Central Bank's regulatory focus is on robust and effective regulation, facilitating market and product development, while protecting investor interests. The Central Bank is willing to engage in direct discussion with industry members and fund promoters in relation to unique or new proposals surrounding investment funds which are consistent with the above principles of regulation. This approach extends to face-to-face meetings to discuss new investment fund structures and practical solutions to challenges faced by the industry. Walkers' asset management and investment funds group has developed a strong relationship with the Central Bank.

Irish domiciled regulated investment funds benefit from a favourable tax regime. An Irish domiciled QIAIF (whether structured as an ICAV, investment company or unit trust) is subject to the Investment Undertaking Tax regime whereby income and gains derived from its investment portfolio can accumulate within the vehicle free from Irish tax, irrespective

of the tax residence of its investors. No Irish stamp, capital or other duties apply on the issue, transfer or redemption of shares in an ICAV or authorised investment company.

In addition, provided that an ICAV (or sub-fund of the ICAV in the case of an umbrella fund), authorised investment company or unit trust does not invest in Irish real estate assets (such as direct acquisitions of Irish real estate or loans secured on and which derive the greater part of their value from Irish real estate) no withholding or exit taxes apply on income distributions or redemption payments made by to non-Irish resident investors or certain exempt Irish resident investors (such as Irish pension funds, Irish charities etc.).

A further specific tax regime applies to Irish AIFs structured as ICAVs, investment companies or unit trusts that invest in Irish real estate assets (termed IREFs). We can provide further information on the IREF regime, if applicable.

Ireland also has an extensive and growing network of double taxation treaties (with comprehensive double taxation treaties currently signed with 74 countries) that provide, inter alia, access to favourable tax reclaim rates.



# ICAV - corporate vehicle

The ICAV is a corporate vehicle that has been tailored specifically for investment fund structuring and provides a stream-lined and cost effective solution.

ICAVs can be established with a single sub-fund (portfolio cell/segregated portfolio) or with multiple sub-funds (portfolio cells/segregated portfolios), each following different investment policies and each having segregated liability status under Irish law so that the assets and liabilities of each sub-fund are ring-fenced.

The ICAV can produce separate audited accounts at sub-fund level, which is of great benefit where it is preferable not to refer to the accounts and details of other

sub-funds that may have different strategies and terms.

The constitutional document of an ICAV may be amended without investor approval being required where the depositary certifies that the interests of investors are not prejudiced by the amendment.

A sub-fund of an ICAV may invest in one or more other sub-funds of the same ICAV, subject to certain rules preventing double-charging of management fees.

The ICAV is an "eligible entity" for US tax purposes and can file a "check the box" election to be treated as a partnership (or a disregarded entity if a single shareholder) for US federal income tax purposes.

# Irish qualifying investor alternative investment funds

Irish alternative investment funds are typically established under the "qualifying investor" alternative investment fund or "QIAIF" regime. QIAIFs are regulated investment funds which are targeted at sophisticated and institutional investors.

The main characteristics of the QIAIF regime are as follows:

- regulated fund authorised by the Central Bank in accordance with the AIFMD;
- restricted to "Qualifying Investors" (investors that certify that they are informed and have the knowledge and experience to enable them to properly evaluate the merits and risks of investing);
- minimum subscription of €100,000 (or currency equivalent) per investor;
- limited/few investment restrictions and no borrowing/leverage restrictions (except where the QIAIF will directly originate loans or the QIAIF will invest over 50% of the portfolio in directly or indirectly held Irish property assets);
- may be distributed throughout the European Economic Area via the AIFMD marketing passport;
- sub-funds may be open-ended, limited liquidity or closed-ended, and may have lock-up periods; and
- fast track 24 hour regulatory authorisation process (once fund documentation agreed and AIFM and other service providers in place).

## Process for establishing a QIAIF

The regulatory approval process typically divides into three parts, namely:

- a AIFM authorisation
- b Investment Manager approval; and
- c QIAIF authorisation

## AIFM Authorisation

In accordance with AIFMD, a QIAIF must designate an AIFM.

On the basis that an AIFM which is fully authorised by the Central Bank is appointed by the ICAV, the QIAIF can avail of the Central Bank's fast-track 24-hour authorisation process, as pre-approval by the Central Bank of the AIFM will not be required. Once authorised, the QIAIF can be marketed to professional investors across the European Economic Area via the AIFMD marketing passport. If consideration is being given to establishing an AIFM we can provide further information on the AIFM authorisation process.

A non-EU AIFM may be appointed by the QIAIF with the approval of the Central Bank and the non-EU AIFM will otherwise be subject to the provisions of the AIF Rulebook that apply in the case of QIAIFs with registered AIFMs. Non-EU AIFMs may not avail of the AIFMD marketing passport.

## Investment manager approval

In order for an entity (that will not act as AIFM to the QIAIF) to act as a discretionary investment manager to the QIAIF, the proposed investment manager must be approved by the Central Bank. Where the proposed investment manager is located in a third-country it must be an approved jurisdiction prescribed by the Central Bank and deemed to have a comparable regulatory regime.

Investment managers or sub-investment managers or discretionary investment advisors which are one of the following EU entities will not usually be subject to an additional regulatory review process by the Central Bank:

- i UCITS management companies authorised under the UCITS Directive;
- ii investment firms authorised under MiFID to provide portfolio management;
- iii credit institutions authorised under the Capital Requirements legislation having the approval to provide portfolio management under MiFID; or
- iv AIFMs authorised under the AIFMD.

If a proposed discretionary investment manager, sub-investment manager or investment advisor is based outside of the EU (including the UK) approval process is more involved. We can provide further details in relation to this process if applicable.

### Non-discretionary Investment Advisor

Where a non-Irish investment advisor will not act in a discretionary capacity to an investment fund, no Central Bank clearance of the entity is required. In this instance, the investment advisor should submit the investment advisory agreement along with confirmation from the UCITS management company/directors of the investment fund that the investment adviser in question will act in an advisory capacity only and will have no discretionary powers over any of the assets of the investment fund. The confirmation should also provide that the investment advisory agreement does not:

- i provide for any discretionary management powers; and
- ii conflict with regulations and conditions applicable to the relevant investment fund.

In addition, to the above from a contractual perspective the investment advisory agreement between an investment manager and any investment advisor will need to seek a representation and warranty from the investment advisor that it has all requisite authority, licenses and approval (as applicable) to provide non-discretionary investment advice.

In relation to fees to be paid to a non-discretionary investment advisor, the Central Bank has recently been focused on such appointments and the associated fee arrangement and in this regard has issued an industry letter on fund fees and costs.

### QIAIF ICAV Authorisation

#### Process:

If it is determined to set up the investment fund as an ICAV with one or more sub-funds, the QIAIF or 'product' authorisation is very much documentation driven. Ahead of commencing any project Walkers would create a critical timeline outlining each of the steps required as part of the process and timeframes involved.

### Authorisation Documentation:

The following are the main documents which will form part of the QIAIF application and which Walkers would draft and/or review as part of the authorisation process:

- i QIAIF prospectus and a supplement for each of the initial sub-funds of the QIAIF;
- ii the instrument of incorporation of the ICAV;
- iii the AIFM agreement between the QIAIF and the AIFM;
- iv the investment management agreement appointing an investment manager or a sub-investment manager to conduct discretionary portfolio management;
- v the investment advisory agreement appointing a non-discretionary investment advisor to provide advice to the investment manager (if applicable);
- vi the administration agreement between the QIAIF, the AIFM and the administrator;
- vii the depositary agreement between the QIAIF, the AIFM and the depositary;
- viii investor subscription forms; and
- ix auditor, secretary and directors' engagement letters.

We can also assist with arranging for the required pre-approval of directors by the Central Bank.

### 24 Hour Fast Track Authorisation Process

Once these agreements and documents, together with all of the ancillary documents, have been drafted and/or negotiated, they will be certified by Walkers as being compliant with the Central Bank's requirements. This certification is relied upon by the Central Bank as the Central Bank does not review the QIAIF documentation itself.

Upon agreement of the above documentation with the service providers and approval by the ICAV's directors, the QIAIF authorisation application may be filed, with regulatory clearance generally being issued on the next business day. The QIAIF will then be in a position to accept subscriptions or capital contributions and make investments. The pre-authorisation set-up process for QIAIFs typically takes approximately 6-8 weeks, including engagement of directors and service providers and negotiation of service agreements. The Central Bank's periodic quality assurance testing of submissions will continue, including post-authorisation spot checks on QIAIF filings, with further developments possible.

AIFMD marketing passport notifications can then also be filed with the Central Bank for marketing of the QIAIF within the EEA in accordance with the AIFMD marketing passport within 20 business days of submission of each notification.

A levy is payable to the Central Bank on an annual basis based on the number of sub-funds in the umbrella (currently the minimum levy is €7,165) and an additional

supervisory levy is also payable in the year of authorisation of the umbrella fund (currently €3,000) with additional amounts (€2,000) payable in respect of each new sub-fund approved by the Central Bank.

### Pre-submission process

Certain categories of QIAIFs are required to make pre-submissions to the Central Bank prior to authorisation. This process currently only applies to QIAIFs where investment in Irish property assets or where direct exposure to crypto assets is proposed. The Central Bank has advised that the categories of QIAIFs that are required to make a pre-submission to the Central Bank may be amended and any such amendments will be set out on the Central Bank's website.

## Other Irish regulatory considerations

### Qualifying investors

Investment in the QIAIF is restricted to professional investors. The QIAIF has a minimum initial subscription amount of €100,000 per investor and each investor must sign a declaration to the QIAIF to the effect that they possess the relevant experience and knowledge in relation to financial and business matters so as to enable the investor to properly evaluate the merits and the risks of the investment.

There are exceptions from this restriction for individuals connected to the management of the QIAIF and in those cases the minimum subscription amount of €100,000 is waived.

### Borrowing

The QIAIF may borrow to fund its investments and there are no regulatory limits on the extent of the leverage that may be employed, provided the anticipated level is disclosed to investors in the QIAIF prospectus. Exceptions to this are for L-QIAIFs (see further details below) and where QIAIFs invest over 50% in Irish property assets.

### Valuation & Financial Statements

The assets must be valued at least once a year and as often as the QIAIF deals.

QIAIFs are required to produce annual audited financial statements. A QIAIF ICAV is not required to produce interim unaudited financial statements but it may elect to do so.

### Liquidity

One of the advantages of the QIAIF is that the liquidity terms can be tailored to match the liquidity of the underlying assets.

QIAIFs can be open-ended, open-ended with limited liquidity, closed-ended or impose lock-up periods.

### Umbrella structure

The QIAIF may be established as a single strategy fund or as an umbrella structure meaning that separate sub-funds

(segregated cells), each having segregated liability, may be formed with each pursuing separate investment strategies.

### Dividends

To the extent the QIAIF is in a position to pay a dividend, this can be provided for in the QIAIF prospectus or supplement at the discretion of the directors. Alternatively any distributable income may be rolled up and reinvested by the QIAIF.

### Board composition

The ICAV will require a minimum of three directors, including one independent director and two Irish resident directors (one or both of which may be independent) and one director who is an employee of the promoter or the investment manager. All directors appointed to a fund must be authorised and approved by the Central Bank. Each director appointed to the board of the QIAIF will have to complete the Central Bank's individual questionnaire in order to satisfy the Central Bank's fitness and probity requirements. This is a detailed online questionnaire, which must be completed, including the provision of supporting information such as a CV, education as well as other professional background details and disclosure of the director's time commitments and other professional commitments. Walkers can provide separate information relating to this process.

### Central Bank

The Irish investment fund is regulated by the Central Bank. It is important to note that as long as it is an authorised investment fund in Ireland no changes can be made to the fund structure or documentation without the Central Bank's consent. There will also be monthly, semi-annual and annual filings to be made with the Central Bank in relation to the investment fund, these will generally be addressed by the fund's administrator on behalf of the fund.

### Fees and expenses

The fees and expenses of the QIAIF must be disclosed in the prospectus. The fees payable to the main service providers, i.e. the AIFM, the administrator and depositary must be disclosed in the prospectus.

There are a number of performance fee/carried interest models that can be accommodated within the QIAIF, from annual high water mark methods to back ended waterfall payments. We can consider these further with you, to the extent they are relevant to your proposed charging structure, but whichever model is chosen it will need to be fully disclosed in the prospectus

### Loan origination QIAIF

Where loan origination is envisaged, a L-QIAIF would be required to be established. The L-QIAIF must have an authorised AIFM.

L-QIAIFs are subject to additional requirements set out in the Central Bank's AIF Rulebook as detailed below.

A L-QIAIF is subject to an additional overlay of specific rules



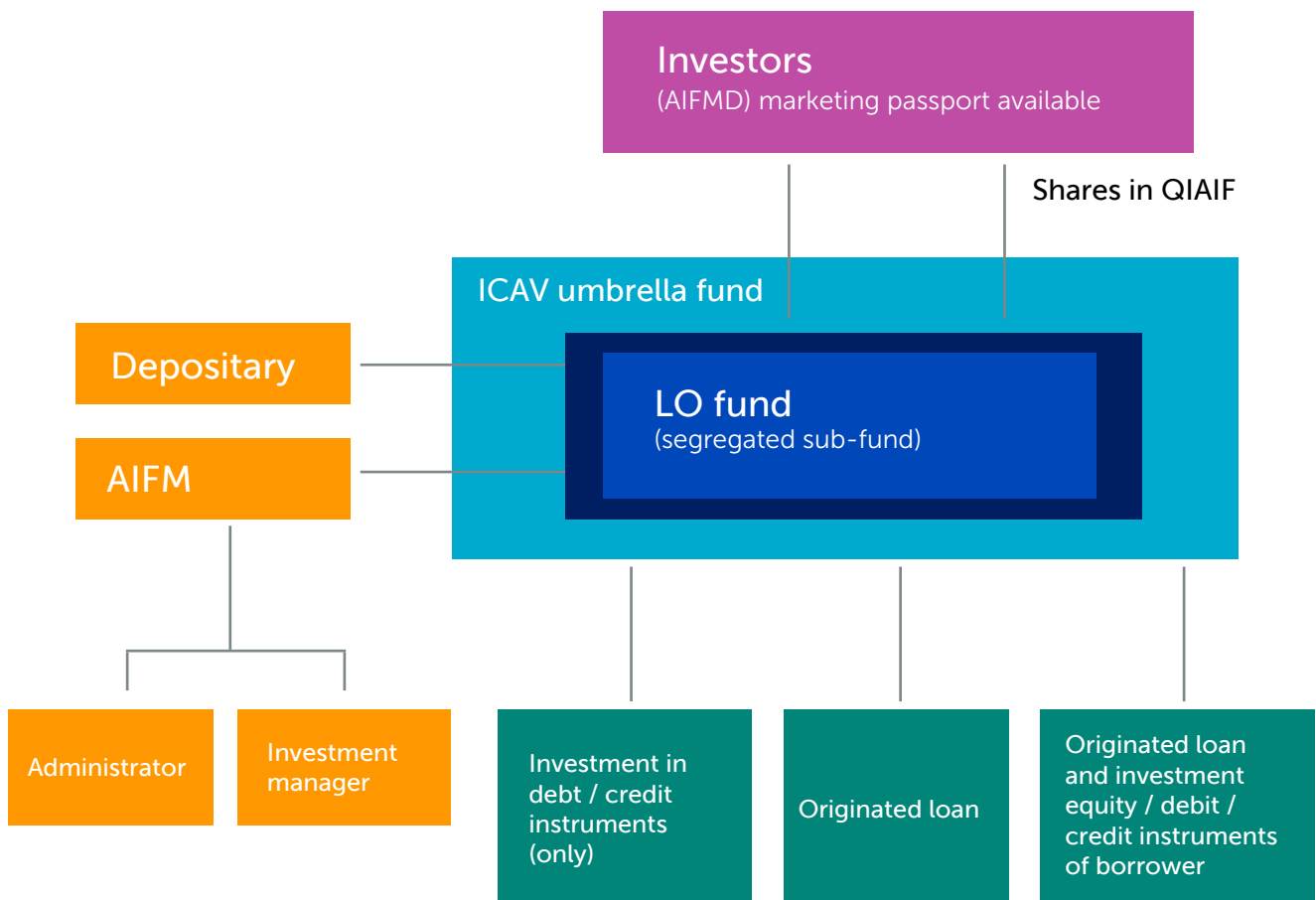
relating to the origination of loans which are summarised below.

- **Scope of Activities:** A L-QIAIF is required to restrict its activities to issuing loans, participating in loans, investment in debt/credit instruments, participations in lending, and to related operations including investing in equity securities of entities or groups to which the L-QIAIF lends or instruments which are held for treasury, cash management or hedging purposes.
- **Diversification requirements:** A L-QIAIF is required to employ a risk diversification strategy which would limit exposure to any one issuer or group to 25% of net assets within a timeframe specified in its offering document. Failure to achieve this risk diversification strategy will require shareholder approval, and if shareholder approval is not forthcoming, the L-QIAIF must terminate.
- **Leverage:** A L-QIAIF must not have gross assets of more than 200% of its net asset value and if the L-QIAIF exceeds this limit, it must secure the approval of the Central Bank within 30 days in respect of a formal plan to re-align its leverage ratio.
- **Eligibility requirements:** A L-QIAIF is prohibited from originating loans to natural persons, other collective

investment schemes, certain connected parties, persons intending to invest in equities or other traded investments or commodities and in certain circumstances, to financial institutions.

- **Liquidity and Distributions:** A L-QIAIF must be established for a finite period of time and be closed-ended, however, redemptions and distributions may be offered to investors where unencumbered cash and/or liquid assets are available. Unless the assets of the L-QIAIF are valued by reference to prevailing market prices, a redemption of unitholder holdings or distributions to unitholders cannot be made without the approval of the unitholders.
- **Credit Granting, Monitoring, Management and Stress Testing:** A L-QIAIF is required to implement and maintain policies and procedures in relation to the assessment, pricing and granting of credit, the management of concentration risk and credit risk and the diversification of credit positions. A L-QIAIF must implement a comprehensive stress testing programme and report on it to the AIFM on at least a quarterly basis.

Please see an illustration of a L-QIAIF structure below



## Key contacts

Our Irish based team will work closely with attorneys and professionals across our other offices in Bermuda, the British Virgin Islands, the Cayman Islands, Dubai, Guernsey, Hong Kong, Jersey, London and Singapore to ensure that you consistently receive the highest level of client service.

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