

Fund Finance Friday



Significant Development for Irish Regulated Funds in Multi-Tiered Financing

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The AIF Rulebook issued by the Central Bank of Ireland (the “**Central Bank**”) currently restricts an Irish Qualifying Investor Alternative Investment Funds (an “**Irish QIAIF**”) from acting as a guarantor on behalf of third parties. The term “guarantor” is not defined in the AIF Rulebook and accordingly, it was generally understood in the Irish market that an Irish QIAIF was prohibited from providing a guarantee and/or security for the obligations of a third party other than a wholly owned or controlled subsidiary or limited partnership.

Cascading Security

In order to navigate this prohibition, a “cascading security” structure was often traditionally used in subscription finance transactions where an Irish QIAIF was a feeder fund (rather than the borrower). An example of this structure is as follows:

- in the first tier, the Irish QIAIF feeder fund enters into a security assignment in favour of the master fund borrower assigning, *among other things*, the rights to call capital commitments from the Irish QIAIF’s investors (to secure the Irish QIAIF’s obligation to make capital contributions to the master fund borrower) (the “**First Tier Security Assignment**”). The Irish QIAIF fund does not provide any direct credit support to the lender;
- in the second tier, the master fund borrower enters into a security agreement directly with the lender assigning to the lender, *among other things*:
- the rights to call capital commitments from the master fund borrower’s investors; and
- the capital call rights and all of its interests in the First Tier Security Assignment (including the corresponding enforcement rights of the Irish QIAIF feeder fund) to secure the master fund borrower’s obligations to the lender.

March 2025 - Central Bank signals a development

The Central Bank issued its 50th Edition AIFMD Questions & Answers in March 2025 and confirmed that it is possible for Irish QIAIFs to provide a guarantee for investments and/or intermediate vehicles for such investments in which that Irish QIAIF has “a direct or indirect economic interest” subject to a number of conditions. Guarantees and security arrangements would be permitted if *among other things*: the AIFM determined that they aligned with the fund’s investment strategy; the AIFM and the depositary confirmed that they served the investors’ best interests and were conducted at arm’s length; the guarantee and security arrangements were properly disclosed in the prospectus; and the liability of investors under such arrangements (above the value of their current holdings of shares or other interests in the Irish QIAIF) was limited to the amount, if any, unpaid on the shares or other interests held by them (including undrawn capital commitments).

Whilst the Irish fund industry welcomed this development, it was still necessary to assess each fund finance transaction on a case by case basis. Furthermore, the guidance issued by the Central Bank was subject to an

anticipated consultation paper and a more extensive review of the AIF Rulebook later in the year.

September 2025- Recent Central Bank Consultation Paper

On 9 September 2025, the Central Bank published a public consultation paper (CP162) setting out reforms proposed to be made to the AIF Rulebook (the “**Consultation**”). The Consultation proposed the removal of the guarantee prohibition from the AIF Rulebook which will provide further clarity for fund finance stakeholders once implemented. This step will better align the AIF Rulebook with the EU framework and reflects market practice in the fund finance landscape in other jurisdictions. This key development will streamline fund finance transactions by eliminating the regulatory requirement for a cascading security structure in credit support documentation and thereby reducing the complexity in transactions involving an Irish QIAIF.

For further information on this or on any other aspects of Fund Finance please contact **Donal O’Donovan** or **Triona Ryan** from the **Byrne Wallace Shields LLP Banking and Finance Team**.

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