

Irish UCITS and Alternative Investment Strategies

What are UCITS?

Undertakings for Collective Investment in Transferable Securities. UCITS are a harmonised European retail fund product that can be sold globally and within the European Union on a passporting basis. UCITS offer a robust and consistent level of investor protection and regulatory compliance combined with a high level of acceptance by regulators worldwide. UCITS can be marketed to both retail and institutional investors.

Legal structures available:

- » Investment Company
- » Unit Trust
- » Common Contractual Fund

Fund types:

- » Equity
- » Money Market
- » Index Funds
- » Fund of Funds
- » Securitised / Structured Products
- » Bond
- » Multi-Manager
- » ETFs
- » REITs

Sample instruments used in UCITS:

- » Total Return Swaps
- » Futures / Options
- » Hedge Fund Indices / Financial Indices
- » Repos and other derivatives used in efficient portfolio management
- » OTC Derivatives (Subject to criteria)
 - UCITS require daily risk calculations

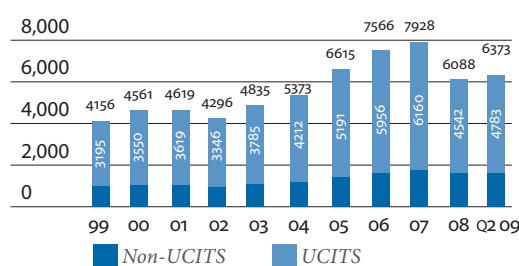
UCITS Alternatives

The UCITS III package, implemented in 2003, provides investment managers with the opportunity to structure alternative type investment strategies within the framework of the UCITS product. UCITS III offers extended financial instrument scope which has seen significant convergence of the alternative industry with the long-only funds industry. Investors may opt for the traditional long-only investment approach packaged as a 'non-sophisticated' investment e.g. equities and bonds or use derivatives in a 'sophisticated' manner with leverage i.e. seeking enhanced absolute returns (increased product offerings can provide a more sophisticated fund approach e.g. fund of funds, index funds, ETFs and derivative funds).

'Sophisticated' and 'Non-Sophisticated' funds

- » A non-sophisticated UCITS may measure its "global exposure" (i.e. leverage) using the commitment approach, which essentially aggregates the underlying notionals to determine the degree of leverage.
- » A sophisticated UCITS must measure its global exposure using 'Value at Risk' or a similar methodology approved by the Regulator.

Net Assets of European UCITS Funds (EUR Billions)



Source: EFAMA

Benefits:

- » UCITS - global brand distributed in 140+ countries
- » Transparent, tried and tested regulation
- » Focus on risk management and investor protection
- » Flexibility to accommodate alternative investment strategies, e.g. leverage and short exposure
- » Continuous evolution – UCITS I/ UCITS III and UCITS IV (2011)

UCITS – distributed in over 50 countries

sample countries:

- Australia
- Austria
- Bahamas
- Bahrain
- Belgium
- Bermuda
- Canada
- Cayman Islands
- Channel Isles
- Chile
- China
- Columbia
- Cyprus
- Czech Republic
- Denmark
- Finland
- France
- Germany
- Gibraltar
- Greece
- Guernsey
- Hong Kong
- Hungary
- Iceland
- Indonesia
- Isle of Man
- Israel
- Italy
- Japan
- Jersey
- Luxembourg

Key Features:

- » Short exposure through the use of derivatives is permitted.
- » 130/30 funds - the asset manager augments an existing 100% long only strategy with an added 30% leverage exposure on the long-side financed by a 30% synthetic short sell, also known as a "short extension". The extra 30% long exposure is a leveraged exposure offset by the 30% short exposure in assets the investment manager believes are overvalued. (Other configurations are possible, e.g. 150/50.)
- » UCITS Guidance Note 3/03 - cash settled derivative instruments must be covered at all times by liquid assets i.e. money market instruments and transferable securities that can be repurchased, redeemed or sold at limited cost, in terms of low fees and narrow bid/offer spread and with very short settlement delay.
- » Under UCITS III financial derivative instruments (FDIs) may be used subject to certain limits.
- » A fund is permitted to invest up to 100% in other UCITS funds and up to 30% in aggregate in non-UCITS funds provided that these funds meet certain criteria (i.e. must be regulated to a standard equivalent to a UCITS) and in the case of both UCITS and non-UCITS are subject to certain diversification rules (e.g. maximum 20% in a single investment).
- » The aggregate credit risk exposure to each derivatives counterparty cannot exceed 10% of the net asset value.
- » ISDA/CSA agreements can be used to provide arrangements similar to those provided by a prime broker..

Why domicile a UCITS in Ireland?

- » Largest administration centre in the world for hedge funds/alternatives (over 40% of global hedge fund assets are serviced in Ireland)
- » Wide-ranging expertise in servicing complex financial instruments, e.g. derivatives
- » Fastest growing international fund domicile for UCITS over the past five years*
- » 80% of Irish domiciled funds are UCITS
- » 50% of overall assets under administration are alternative investment funds
- » 20 years of experience as a fund administration centre
- » Responsibilities of the trustee – providing an extra level of investor protection
- » Legal / product / tax / audit expertise

* The net assets of Irish domiciled UCITS funds grew by 51% between 2004-2008; The European average for the same period was 10%. Source: Central Bank of Ireland & EFAMA

Documentation required

- » Application Form to the Financial Regulator
- » Business Plan*
- » Prospectus* or new supplement
- » Simplified Prospectus*
- » Memorandum & Articles of Association / Trust Deed or CCF Deed
- » Custody / Administration Agreement
- » Investment Management / Advisory Agreement
- » Distribution Agreement**
- » Placing Agreement**
- » Derivative Management Process
- » Director's Questionnaire**
- » Annual FDI report

Time Frame: 4 to 6 weeks (no previous authorisation) or 2 to 4 weeks (with authorisation already in place)

* If in existence – amendments may be required

** Required in some cases

sample countries contd.

Macau
Malta
Mauritius
Monaco
Netherlands
New Zealand
Norway
Oman
Panama
Peru
Portugal
Qatar
San Marino
Saudi Arabia
Singapore
Slovakia
Slovenia
South Africa
Spain
Sweden
Switzerland
Taiwan
Thailand
United Arab Emirates
United Kingdom

UCITS IV - target implementation date 1st July 2011

What to expect:

- » Centralised delivery of fund products (versus regulated entities in each local jurisdiction)
- » Streamlined administration of Cross Border Distribution
- » International Fund Mergers facilitating cost efficiencies
- » Master Feeder Structures – leading to greater pools of assets (economies of scale)
- » Key Investor Information document
- » Enhanced cooperation mechanisms between national supervisors