

DUBLIN FUNDS INDUSTRY ASSOCIATION

NEWSLETTER

APRIL 2004

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CEO Statement



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CEO STATEMENT

As with all years depending on your perspective 2003 will be remembered/forgotten for many reasons. For the global funds industry it was a year that started with global economic and geo political uncertainty and finished with the uncertainty generated by the late trade and market timing issues. Notwithstanding the uncertainty of the global industry, 2003 was an extremely important year for the international funds industry in Ireland.

It is widely accepted that the legal and regulatory environment are the cornerstones of the investment fund industry. During 2003, and in many cases in anticipation of 2004, the international funds industry welcomed the new Financial Services Regulatory Authority ("IFSRA") legislation to consolidate existing UCITS regulations and to transpose the amending UCITS Directives, legislation to transpose the EU Taxation of Savings Directive and earlier in the year legislation was introduced to facilitate a tax transparent pooling vehicle, the Common Contractual Fund ("CCF").

Each of these developments have been introduced in a manner that recognises the competitiveness of the global funds industry and ensures the continuity of the conditions that engendered the success the industry has enjoyed to date; flexibility, pragmatism and co-operation. For the investment funds industry, Ireland is full of promise. But the promise of 2004 is dependent on the foundation of 2003. What can we expect in 2004? And what has been done in 2003 to allow us realise the potential of the promise?

The New UCITS Regime:

The much heralded and long awaited UCITS III regime commenced on 13 February 2004. The lack of a fanfare to welcome this new regime speaks volumes about the industry's state of preparedness. The process, to transpose the amending UCITS Directives, to manage the transition period and to develop the regulatory principles for this new era, was considered by all an outstanding success. Through consultation with the Department of Enterprise, Trade and Employment, IFSRA and the industry, a number of statutory instruments were introduced during 2003. These statutory instruments were drafted and introduced to ensure the provisions of the Directives



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were included in legislation to create a forward looking legislative framework, while recognising the issues of existing UCITS funds and the flexibility demanded by fund promoters and service providers alike. In close collaboration with IFSRA, consideration was given and solutions provided as to how existing UCITS could convert to UCITS III structures with the minimum inconvenience and effort. Finally, addressing the regulatory environment for the new UCITS era, IFSRA engaged in a process of consultation with the industry, which has resulted in a flexible and pragmatic approach to regulation that will be key to the industry's continued competitiveness. The regulatory environment for the UCITS III regime will ensure all opportunities are open, while avoiding placing unnecessary constraints on fund promoters and service providers. The process of consultation to introduce the framework for the new UCITS regime again demonstrates a unique Irish quality, the ability of industry and authority to work hand in hand without compromising the essential integrity of our differing mandates.

EU Taxation of Savings Directive:

After many years of consideration, at their June 2003 meeting, the European Finance Ministers formally agreed on the Taxation of Savings Directive. While the main provisions of the Taxation of Savings Directive are not applicable until 1 January 2005, the Directive was required to be transposed into domestic legislation by 1 January 2004. In addition, a number of the "administrative provisions", i.e. procedures to establish identity and residency, also had a commencement date of 1 January 2004. Following considerable consultation with the Industry tax working group and representatives of the DFIA Transfer Agency Committee, the legislation transposing this Directive, SI 717, was introduced on the 19 December 2003. While the majority of the provisions included in the Directive were mandatory, a number of jurisdictional discretionary options were provided. SI 717 has been introduced to include the flexibility that these jurisdictional discretionary options permitted while also recognising the industry practice of relying on letters of assurance in the establishment of identity and residency. The Taxation of Savings Directive will introduce an additional administrative burden for the European funds industry, however, through the collective efforts of the industry and Authority, the burden on the industry in Ireland has been minimised as far as possible.



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Regulatory Authority:

Given the reputation enjoyed by the Central Bank as a strong, pragmatic and business focused regulatory agency you would imagine that the funds industry would have mourned its passing (as the regulator of the industry). However, that was not the case, and on 1 May 2003 representatives of the industry were on hand to welcome the formal establishment of IFSRA, the Irish Financial Services Regulatory Authority, the new single regulator of the entire financial services industry in Ireland. This, did not demonstrate any fickleness by the industry, it simply reflected the industry optimism that the establishment of a world-class regulatory agency that included the expertise and experience of the previous regulatory agency, the Central Bank, would further assist the development and reputation of our industry. Now fast approaching its first anniversary of establishment, IFSRA has demonstrated that the industry optimism was well placed. In recent interactions with IFSRA, when discussing specific industry issues or the approach to the funding of the regulatory agency, competitive issues and forces are to the forefront of IFSRA's consideration. The first strategic plan IFSRA produced and launched in January 2004 clearly identifies IFSRA's objective of "having a regulatory system that fosters safe and sound financial institutions while operating in a competitive and expanding market of high reputation" and this to be achieved by, amongst other things "adopting a principles-based approach to supervision". The King is dead, long live the King.

Alternative Investments:

The Irish funds industry is the acknowledged jurisdiction of choice for the administration of alternative investments. Recent articles have estimated that the size of the global Alternative Investment Funds ("AIF's") industry is between \$600bn and \$750bn and a recent DFIA survey reported that approximately \$200bn of alternative investments are serviced by the Irish industry, representing approximately 30% of the global industry. At present the vast majority of AIF's are domiciled in the Caribbean and marketed to non-retail investors, however this is likely to change. With the increased demand by retail investors for these products, discussions within the EU for the regulation of alternative investment funds, and the introduction in a number of countries, including Ireland, of regulatory provisions to provide for retail funds of hedge funds, AIF's are set to move into the retail sector and the demand for regulated AIF's is set to increase. Anticipating these developments it is important to



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ensure that Ireland has the necessary structures in place to support this fast growing sector of our industry. With regulatory provisions already introduced for retail fund of hedge funds and the conclusion of the consideration by IFSRA in relation to the collateral and prime broker issues imminent, the framework for establishing a domicile for regulated AIF's is nearing completion.

Legislative developments:

It is a widely held view that the legal framework represents the bricks and mortar with which the investment funds industry creates its products and services. During 2003 legislation was introduced to facilitate the creation of a tax transparent asset-pooling vehicle, the Common Contractual Fund ("CCF"). Given the features of this structure and the opportunities it presents, this innovative product should be of enormous interest to multinational companies operating pension funds in multiple jurisdictions.

In addition, the IFSC legislative sub-committee have been working with the Government authorities to introduce amendments to company law to provide for the ring fencing of liability of sub-funds and to allow for cross investment between sub-funds in an umbrella structure. These developments, which will enhance and expand the industry product range, are at an advanced stage of preparedness and should be introduced in the very near future.

In addition to establishing a firm foundation for the Industry's cornerstone, the legal and regulatory environment, other developments of note in 2003 included the successful completion of the first cycle of the second industry specific education programme, the Diploma in Mutual Fund Services. Building on the success of the Certificate in Mutual Fund Services, the Diploma in Mutual Fund Services, developed and delivered by industry practitioners, ensures the industry continues to develop its most valuable resource, its people.

Recognising the number of industry developments under consideration during 2003 and to provide an opportunity for promoters of Irish funds (an extremely important industry constituency), to hear about these developments, the Council of the DIFA decided to host an industry briefing seminar. At the end of September the industry hosted a very successful seminar in Boston, which was attended by approximately



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200 representatives of the promoters of Irish funds. Given the success of the event, further seminars are being considered for later in 2004.

From a standing start in 1989 Ireland has developed into a significant international funds jurisdiction. To remain competitive and to maintain our place in the global industry there is a continuing need to review, reassess and refine. As such the importance of 2003, the foundation year, the transition year cannot be underestimated.



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Dublin Funds Industry growth continues to outpace market trends

