



An Roinn Airgeadais  
Department of Finance

# Business Tax Stakeholder Forum

Department of Finance  
October 2023

# Agenda



- Introduction
  - Introduction
  - General Overview of Budget and Finance Bill
- Domestic Developments
  - Domestic Implementation of Pillar II
  - Roadmap for the Introduction of a Participation Exemption Regime
  - Outbound Payments
  - Q&A
- EU and International Tax Developments
  - EU Tax Developments
  - OECD Global Tax Agreement
  - Q&A
- Review of Ireland's Funds Sector
  - Public Consultation Feedback
  - Q&A
- AOB





An Roinn Airgeadais  
Department of Finance

# Introduction

Emma Cunningham  
Department of Finance  
October 2023

# Introduction and General Overview of Budget and Finance Bill



## Budget 2024

- Once-off €250 million Increased Cost of Business Scheme.
- CGT Angel Investor Relief: Reduced rate of 16% or 18%.
- S481 Relief: Cap on eligible expenditure increased to €125 million.
- R&D Tax Credit: Increased to 30% and payment threshold increased to €50,000.
- Consanguinity (Stamp Duty) Relief: Extended to 31/12/2028.
- EII - Standardising the investment period to four years and doubling the amount an investor can claim relief to €500,000.



## Finance Bill No. 2 2023

- Outbound Payments Legislation.
- Domestic Implementation of Pillar II
- Group Relief
- Pre-Trading Expenditure
- Digital Games and Film Relief
- Qualifying Finance Companies – interest relief
- Changes to taxation of leased plant and machinery assets

# Finance Bill - EU Freedoms



- The Finance Bill amends sections 172A and 172C, TCA 1997 to ensure that Dividend Withholding Tax (DWT) and the related Income Tax (IT) provisions operate in line with EU law.
- There are two aspects to this amendment:
  - It ensures that persons resident in all EEA countries are treated equally.
  - It ensures that DWT applies to a pension fund located in a country with which Ireland has a Tax Information Exchange Agreement (TIEA) no less favourably than how it applies to an equivalent Irish pension scheme.



- Section 153 imposes a charge to Irish IT in respect of all distributions made by Irish companies, other than where an exemption applies. As a consequence of the amendments to 172A and 172C, the section is being amended to provide for an IT exemption for the distributions to residents of EEA states and equivalent pension schemes in TIEA countries, to match the DWT exemptions.

# Finance Bill - Group Relief & Pre-Trading Expenditure



## Group Relief (Sections 422, 423, 428)

- Group Relief allows members of a group of companies to surrender certain Corporation Tax (CT) losses and other reliefs to other members of the group.
- Group relief is restricted where the accounting periods of the surrendering company and the claimant company are not fully aligned, or where a company joins or leaves a group of companies.
- Finance Bill 2023 introduces a number of technical amendments to the group relief provisions in sections 422, 423 and 428 TCA 1997 which provide for the restrictions. The amendments clarify that the restrictions also apply in respect of group relief which may be set off against other income taxable at the CT rate of 12.5% or on a value basis.
- The amendments will apply to accounting periods commencing on or after 1 January 2024.



## Pre-Trading Expenditure (Section 82 TCA '97)

- Finance Bill 2023 amends section 82 TCA 1997 which relates to the treatment of pre-trading expenditure incurred by a trade or a profession set up and commenced on or after 22 January 1997.
- This change is just one of a suite of amendments to ensure that Group Relief operates as originally intended.
- Section 82 allows expenditure, wholly and exclusively incurred for the purposes of the trade or profession in a period of up to three years prior to its commencement, to be deductible in calculating trading profits upon commencement. This gives rise to a loss where allowable expenses exceed income in the first accounting period.
- The Bill amends section 82(3) TCA 1997 to ensure that any losses resulting from pre-trading expenses may only be carried forward for use against future income of the same trade or profession for companies.

# Finance Bill - Digital Games and Film Relief



## Digital Games

- The Section 481A amendments relate primarily to the manner in which the credit is to be claimed and are intended to align the credit with new international definitions of qualifying refundable tax credits.
- Additionally, some minor technical amendments in the Bill will :
  - provide that claims for the credit may not include expenditure that is to be met by grants or other assistance; and
  - extend the deadline by which digital games development companies must claim the digital games corporation tax credit in respect of completed games.



## Section 481

- Finance Bill 2023 amends section 481 TCA 1997(Film Tax Credit) to increase the maximum value of expenditure on a qualifying film that a producer company may use for calculating the credit from €70 million to €125 million.
- This amendment is subject to EU State aid approval.
- This amendment will be commenced at a future date and will apply to films certified by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media after 1 January 2024 or after commencement of the section, whichever is later.
- Following initial exploratory work over the past year, it has also been announced that a new tax credit is to be developed for Unscripted Productions. Engagement with both the European Commission and the audiovisual sector will be required to understand the relevant financial structures and costs and the potential scope for a cultural test. State aid approval would also be required.



An Roinn Airgeadais  
Department of Finance

# Domestic Developments

Deirdre Donaghy & Gary Hynds  
Department of Finance  
October 2023



# Domestic Developments - Pillar Two implementation



## *Included in Finance (No.2) Bill 2023*

Section 90	contains the <b>main operational part of Pillar Two</b> – it inserts a new Part 4A into the TCA 1997
Section 91	amends other parts of the TCA 1997 to ensure that <b>administrative aspects</b> of Pillar Two are in line with other taxes, such as corporation tax.
Section 92	amends <b>other relevant enactments</b> to ensure that these enactments apply to Pillar Two taxes in the same manner as they apply to other taxes such as corporation tax.
Section 93	amends the unilateral provisions of <b>Schedule 24</b> of the TCA 1997 to clarify that double tax relief is available under Irish domestic rules for a foreign Pillar Two QDTT arising on foreign dividends or foreign branch profits taxable in Ireland.
Section 94	amends relevant definitions of the <b>CFC rules</b> in order to provide a credit for a Pillar Two QDTT paid by a CFC in another jurisdiction and to factor Irish and foreign QDTT charges in the effective tax rate exemption calculations required under the CFC rules.
Section 95	amends <b>relief for investment in digital games</b> in order to align the credit with the definition of qualifying refundable tax credits.

# Domestic Developments - Participation Exemption



- Roadmap and consultation published 14 September 2023



Rialtas na hÉireann  
Government of Ireland

## Roadmap for the Introduction of a Participation Exemption to Irish Corporation Tax including technical consultation

September 2023

Action	Timeline
Publication of project roadmap, including detailed consultation on introduction of a participation exemption(s) to the Irish corporation tax system	September 2023
Close consultation and consider responses	13 December 2023
Consideration of responses & further stakeholder engagement	December 2023 – March 2024
Feedback Statement 1 (Dividend Exemption)	End March 2024
Feedback Statement 2 (Dividend exemption) – if required	Circa July 2024
Finance Bill 2024 – Legislate for dividend exemption to take effect from 2025	October – December 2024

# Domestic Developments - Participation Exemption Public Consultation Key Themes



## Dividend exemption

### 1. Structural Considerations

- Full or partial
- Optionality
- Eligibility
- Length & nature of participation
- Transition

### 2. Consequential Impacts

- Anti-Hybrids
- CFC Rules
- Interest Limitation
- Transfer pricing
- Franked Investment Income



## Branch exemption

- Considerably more complex with more consequential impacts to be considered
- Less common than dividend exemption
- Further investigation – what could it look like & what it might be used for

# Domestic Developments - Outbound Payments



- A commitment as part of the Update to Ireland's Corporation Tax Roadmap in January 2023 and the National Recovery and Resilience Plan.
- The purpose of these measures is to tackle aggressive tax planning by preventing double non-taxation.
- The measures remove certain exclusions from existing withholding taxes on outbound payments of interest, royalties, and dividends by Irish companies and Irish branches of foreign companies to an associated entity who is resident, or situated, in certain territories.
- Subject to certain conditions, the withholding tax will apply at:
  - 20% applies to payments of interest and royalties.
  - Dividend Withholding Tax at 25% applies to distributions made.

# Domestic Developments – Outbound Payments



## Key Features

<i>Double non-taxation</i>	Cross border situations where 1) a payment gives rise to a deduction in two territories but where related income is not included in both or 2) where a payment is deductible in one territory without a corresponding amount included in the tax base of the other territory.
<i>Scope</i>	The territories effected are those included in Annex I of the EU list of non-cooperative jurisdictions for tax purposes, 'no-tax' and 'zero-tax' territories.
<i>Excluded Payments</i>	Payments and distributions excluded where reasonable to consider that double-taxation does not arise. E.g. payments subject to supplemental tax (CFC, Pillar Two etc.), payments taxed directly in foreign territory and payments to specific entities' for common policy reasons (e.g. Pension Funds)
<i>Commercial Structures</i>	Rules cater for payments to tax transparent entities, use of listed debt instruments and back to back financing structures where no double non-taxation arises as a result of the financing arrangements
<i>Transitional Arrangements</i>	Applying to new arrangements from 1 April 2024 in line with commitments, limited grandfathering for existing arrangement to facilitate orderly transition.

# Questions and answers





An Roinn Airgeadais  
Department of Finance

# Update EU and International Tax Developments

Gary Hynds, Ciaran Parkin & Ciaran Conroy  
Department of Finance  
October 2023



# EU Tax Developments





# EU Tax - Legislative files



There are a range of EU tax files under discussion. Ireland will analyse any legislative proposal from the European Commission and fully engage to ensure that the Irish position is well represented.

## Current Files

- FASTER
- Unshell
- BEFIT Package:
  - Transfer Pricing Directive
  - BEFIT Directive
  - HOT Directive

## Other

- Code of Conduct Group: October 2023 update to EU list.
- DAC 8 has been agreed and will have to be transposed.



# EU Tax - Faster Proposal



- Published – June 2023.
- Stated objective - to improve procedures for non-resident investors and to prevent tax abuse in the field of withholding taxes.
- EU Council technical working group meetings, held under the Spanish Presidency, have completed article by article reviews.
- The Presidency is seeking to drive the proposal forward, and Member States broadly support the objectives.
- At a high level, there is still a question mark over whether the correct balance can be found between the two objectives of the proposal



# EU Tax - Unshell



- Published - December 2021.
- Stated objective - to prevent tax avoidance and evasion through actions by undertakings without minimal substance, and enhance the proper functioning of the internal market.
- EU Council technical working group meetings, held under French, Czech, Swedish and Spanish Presidencies, have completed article by article reviews.
- Difficult and extended negotiation given the divergent views of MS
- Recent media reports detailed latest attempt to progress through consideration of an Exchange of Information directive in the first instance.
- Council to consider this option further however many issues remain and detailed discussions will continue in the coming weeks.



# EU Tax - Transfer Pricing



- Published – September 2023.
- Stated objective - to harmonise the implementation and application of transfer pricing rules within the EU with Member States taking a common approach.
- It incorporates the arm's length principle and key transfer pricing rules into EU law.
- It is proposed to establish further common binding rules in the area of transfer pricing by way of implementing acts.
- EU Council technical working group meetings have begun under the Spanish Presidency, and will continue as Belgium takes over the Presidency in 2024.
- The file is at the early stage of discussions and the Department and Revenue continue to analyse it line by line.



# EU Tax - Head Office Tax (HOT) and BEFIT



## Head Office Tax (HOT) Directive

- Published September 2023.
- Aim - to establish a Head Office Tax system for SMEs operating cross-border in the EU that would simplify the need to interact with multiple tax systems.
- Not expected to be picked up by the Presidency until Transfer Pricing Directive is progressed further.

## BEFIT Directive

- Published September 2023.
- Aim - to agree a common framework for calculating the corporate income tax base for large groups of companies in the EU.
- Not expected to be picked up by the Presidency until Transfer Pricing Directive is progressed further.

# Questions and answers





# OECD Global Tax Agreement



# OECD global tax agreement - Pillar One Amount A



## State of Play

- Current draft text of the MLC has been published to allow for jurisdictions internal process.
- Consultation in US (October 11 to December 11 2023) important because of their role in critical mass.
- Text largely settled but some reservations remain.
- Standstill of digital services taxes due to expire at the end of the year (potential extension?)

## Next Steps

- Finalisation of outstanding issues.
- Agreement and signature of MLC
- Ratification process and critical mass by end-2024
- Finalise Amount B phase one work and negotiate for a broader scope in phase two.





# OECD global tax agreement - Pillar One Amount B



Simplify & streamline transfer pricing, ending disputes.

## State of Play

- Public consultation summer 2023: strong engagement by stakeholders and officials.
- Technical work ongoing: two phases –
  - Phase 1 to end - year
  - Phase 2 next year
- Phase 1 seeks to finalise a deliverable which will be optional and of limited scope – in the interest of developing countries.
- Digital goods not included – but there will be a phase two.

## Next Steps

- Finalise phase 1 deliverable - in a fair and workable manner.
- Negotiate for a broader scope in phase 2 - to include digital.

# UN Tax Developments



# United Nations



- G77 (largely developing countries) brought forward a resolution on International Tax Cooperation at the UN in November 2022.
- Public consultation conducted earlier this year as part of process to explore options.
- EU members joint response noted role of UN in capacity building and warned against parallel process.
- Followed by UN Sec Gen's report on 'Promotion of inclusive and effective international tax cooperation at the United Nations' published August 2023 - 3 Options:
  - Option 1: Multilateral convention on tax cooperation
  - Option 2: Framework convention on international tax cooperation
  - Option 3: Framework for international tax cooperation
- *Common position submitted by Presidency of EU Council in September favouring Option 3.*
- DFIN Continue to work closely with DFA & EU partners.

# Questions and answers





An Roinn Airgeadais  
Department of Finance

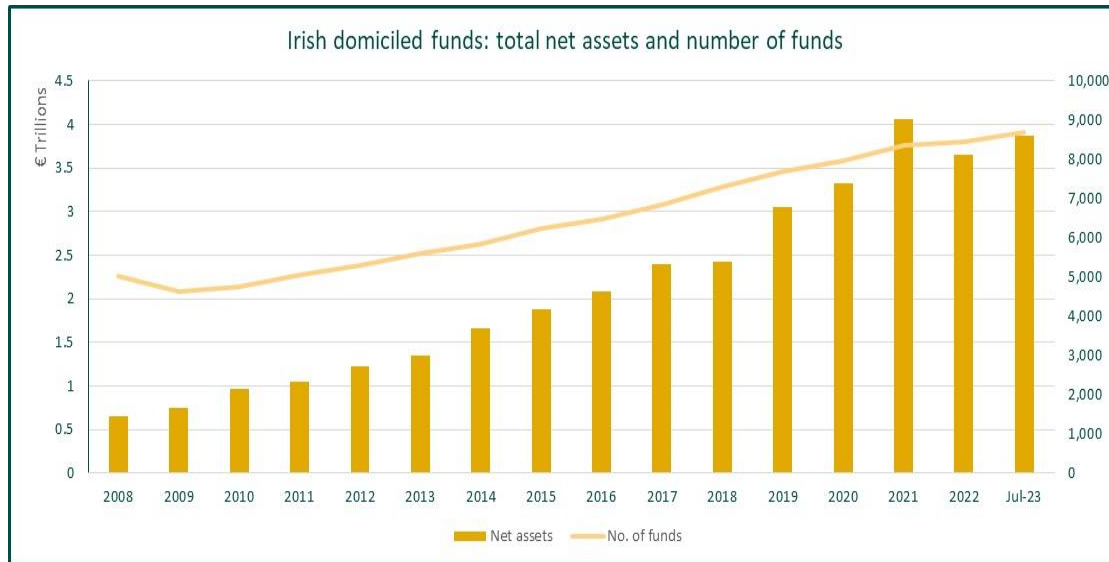
# Funds Sector 2030: a framework for open, resilient & developing markets

Brian Corr  
Department of Finance  
October 2023

# Background: Ireland's funds sector

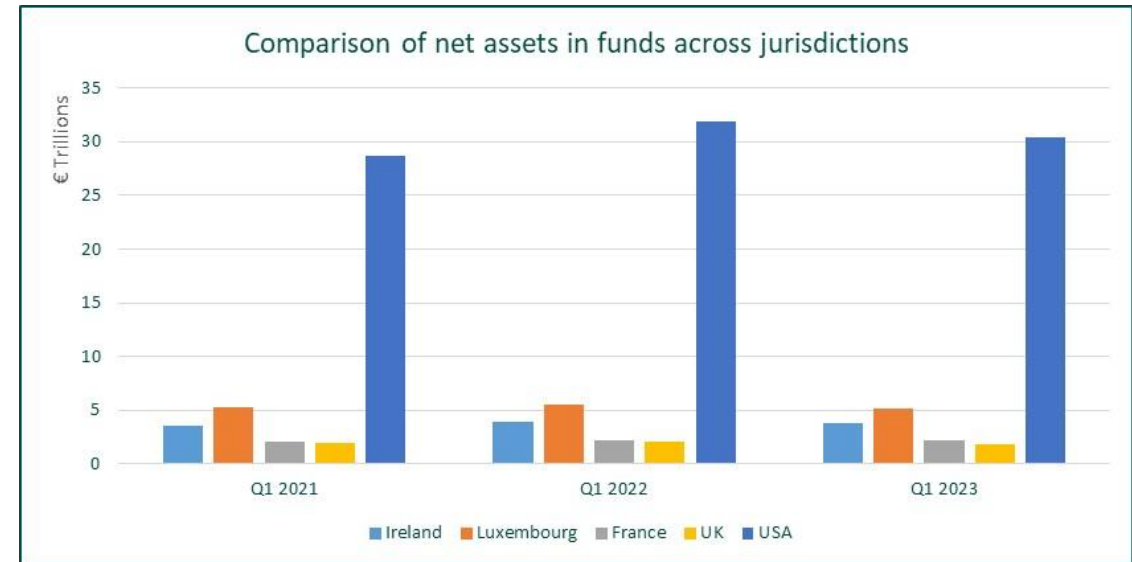


Ireland's funds sector has continued to grow steadily despite a decline in net outflows in 2022 (a trend seen across the EU and US).



Source: Irish Funds & EFAMA international quarterly statistics

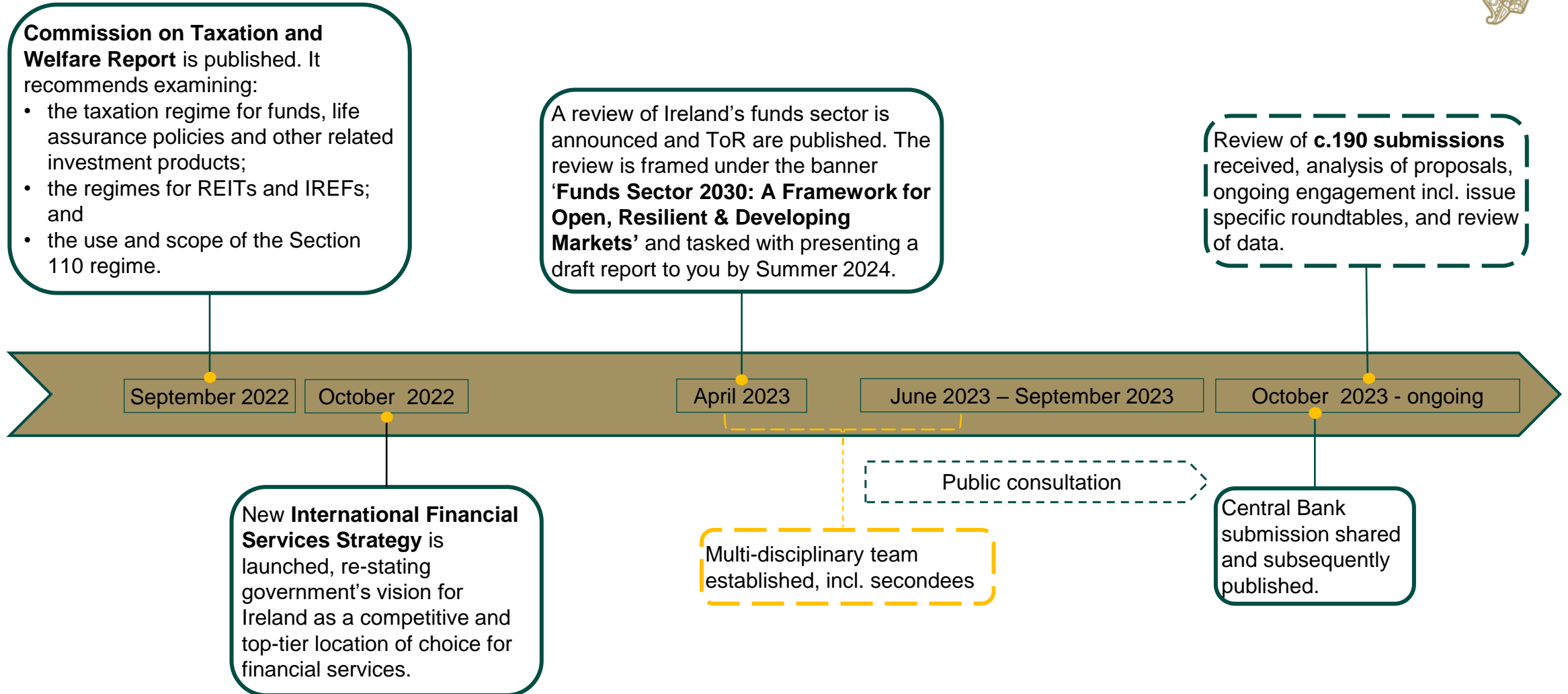
Ireland is the second largest fund domicile in Europe and the third largest in the world. Almost half the world's net assets are held in US funds.



Source: EFAMA international quarterly statistics

Key successes: 67% market share of the European ETF market; 43% market share of European UCITS MMF assets.

# Funds Review: Timeline



# Terms of Reference: Taxation



- Assess how the funds sector has evolved since policy supports to attract international financial services activity to Ireland began in the late 1980s.
  - Assess how the funds sector directly and indirectly contributes to the economy, with particular reference to employment, revenues and regional development.
  - Outline the current landscape of the asset management and funds servicing, having regard to domestic and international debates on the role of the non-bank sector;
  - Undertake relevant peer comparisons, most notably from other EU jurisdictions;
  - Assess the role the sector can play in deepening Ireland's capital markets and in particular supporting domestic SME's access to finance;
  - Outline the regulatory and supervisory framework for the sector, having regard to the role of the Financial Regulators and the role of the sector both in the economy and in the location of choice for international financial services activity;
  - Assess how the sector supports domestic enterprise and employment;
  - Make recommendations for the future of the sector 5-10 years ahead.
- Have regard to the Commission on Taxation and Welfare recommendations 6.6 & 6.7 which called for:
    - an examination of the taxation regime for funds, life assurance policies and other related investment products, with the goal of simplification and harmonisation where possible; and to do so with a net revenue-raising or neutral mandate;
    - an examination of the regimes for Real Estate Investment Trusts (REITs) the Irish Real Estate Funds (IREFs) and their role in the property sector, including how they support housing policy objectives; and
    - the use and scope of the Section 110 regime, both in the context of the property sector and more generally so as to ensure that the regime is fit for purpose and meeting agreed policy objectives;

# Public consultation



C.190  
submissions of  
which 52 from  
organisations

17 firms

14  
representative  
bodies

16 law firms /  
professional  
services firms

5 other  
organisations

Issues raised in **industry**  
responses:

Fund structures

Government  
engagement

Regionalisation

Talent & skills

Property funds

ESG

Technology

Taxation

Regulation &  
supervision

C.140 submissions from  
**individuals:**

These submissions overwhelmingly seek changes to the **taxation of investment products** such as ETFs. A number of proposals (from individuals and organisations) were also made for the introduction of tax wrapper **retail investment products** such as the UK ISA regime.



# Next steps



1

**Analysis of consultation responses**

2

**Further stakeholder engagement**

3

**Assessment of policy options**

**Report to Minister  
(summer 2024)**

# Questions and answers

