Legal Update

Investment Funds and the Irish Property Market

Recent Increase in Stamp Duty Rates

On 20 May 2021, changes to stamp duty were introduced as a disincentive to the practice of bulk purchasing certain residential properties in Ireland. The government has imposed a stamp duty charge of 10% on the purchase of 10 or more residential houses in a 12-month period. This 10% rate is intended to discourage the practice of institutional investors purchasing multiple residential properties in housing estates. The government hopes that this initiative will facilitate first time buyers entering the property market.

The charge is an increase in the stamp duty usually applied to residential property in Ireland, being 1% on a property valued up to €1 million, and 2% on the balance of a higher value. There will be a three-month transition period for contracts that had been entered into but not completed prior to the new measures taking effect.

The purchase of apartments will be exempt from these measure as will multiple purchases made by Local Authorities and Approved Housing Bodies. However, the increased rate is also relevant in situations where multiple purchases of residential properties are made indirectly through shares, units in investment funds or interests in a partnership.

This increased rate of stamp duty does not apply with respect to units purchased prior to this new measure coming into effect on 20 May 2021. However, units purchased before this date will count towards the threshold of 10 properties purchased over a 12-month period, but the higher stamp rate will only apply to dwellings purchased on or after 20 May 2021.

Funds in Irish and European Property Markets

Property funds' investment in commercial real estate (CRE) in the Irish property market has grown in recent years. Analysis has indicated that the diversification of CRE investment has seen a move away from domestic investors to international investors and a reduced reliance on debt financing by Irish retail banks. This contrasts with the situation prior to the Irish property crash of 2008 when domestic investors were most active in this sector.

Property funds in Ireland can be structured as qualifying investor alternative investment funds (QIAIFs), retail investor alternative investment funds (RIAIFs) or REITs, as well as unregulated limited partnerships. However, recent analysis of the sector has shown that certain property funds have material levels of leverage and liquidity mismatch. These characteristics can increase the vulnerability of the property fund sector. In the context of the lack of certainty as a result of the COVID-19 pandemic, the Central Bank of Ireland is both monitoring and engaging with investment funds in order to enhance their preparedness in responding to shocks in the sector.

According to the European Securities and Markets Authority's (ESMA) 2021 annual statistical report on EU Alternative Investment Funds, Real Estate Funds are the third-largest Authorised Investment Fund type by size, accounting for 12% of all AIFs and with a Net Asset Value of €802 billion. The size of the Real Estate fund industry increased by 35% in 2018 and at a more moderate rate in 2019 (Increase of 9%).

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