



# Investment Limited Partnership

Practical insights on recent legislative changes

25 February 2021

*Your Partner For What's Next*



# Welcome!

With you today...



**Jorge Fernandez Revilla**  
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**Jim Calvert**  
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Regulatory*



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**Gareth Bryan**  
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Tax*

# Agenda

**1 – Welcome / intro**

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Jorge Fernandez Revilla

**2 – Key changes & regulatory landscape**

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Niamh Mulholland

**3 – Tax considerations**

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Gareth Bryan

**4 – Operational considerations – valuation**

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Jim Calvert

**5 – Operational considerations – operating model**

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Steven Culliton

**Q&A**

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Moderated by Jorge Fernandez Revilla



# Key changes & regulatory landscape

# Key changes and regulatory landscape

The Investment Limited Partnership (Amendment)  
Act 2020



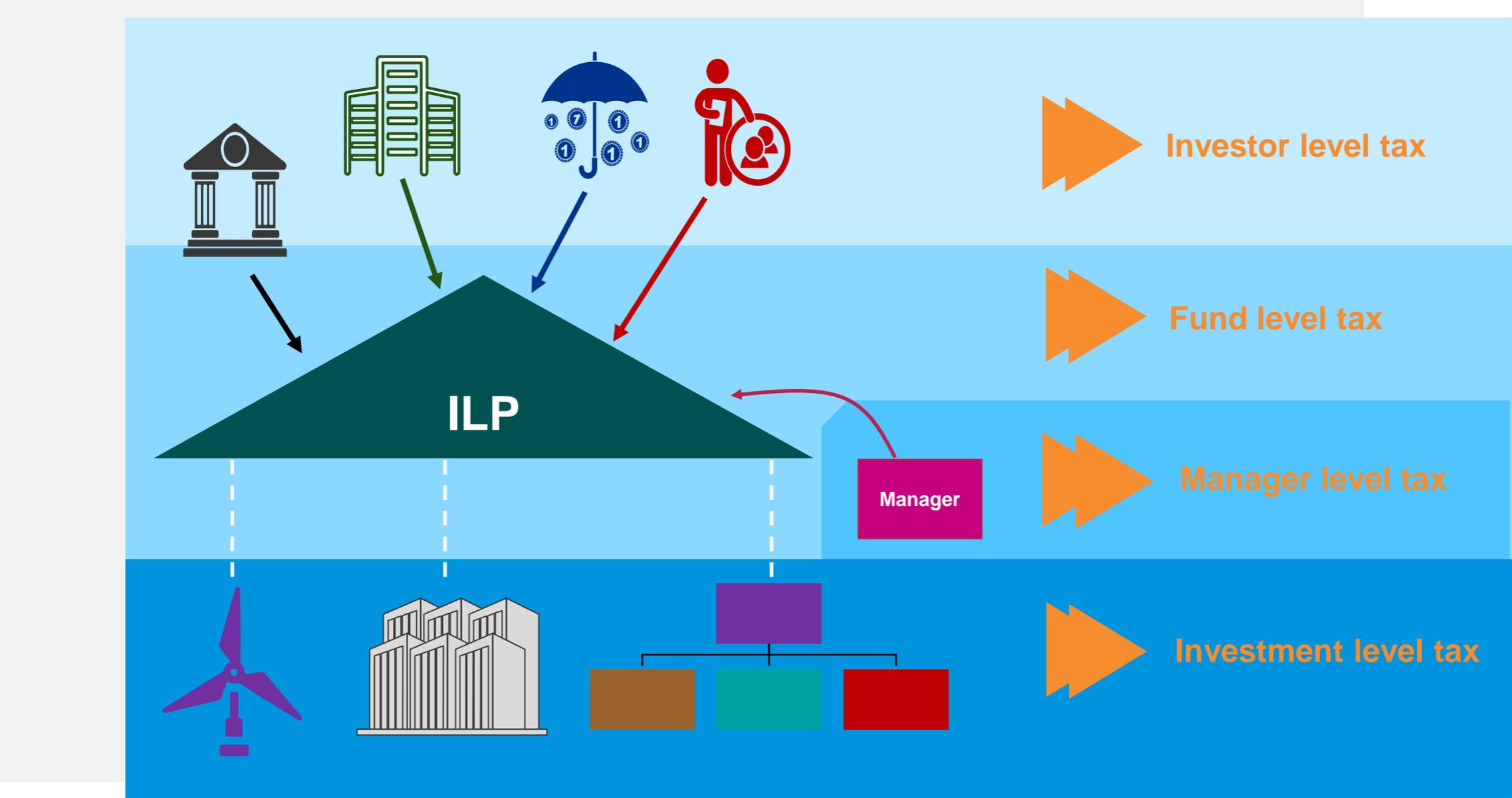
*Formation and Establishment of an ILP – Key  
Considerations*



*Authorisation of a QIAIF using an ILP – AIFMD and  
CBI AIF Rulebook Considerations*

# Tax considerations

# ILP – similar tax considerations to other partnership vehicles



# Fund level tax considerations



## TAXATION OF THE FUND

- ILP is transparent for Irish income tax, corporation tax, and capital gains tax
- Transfer of partnership interest generally exempt from Irish stamp duty
- Typically is treated as a separate taxpayer for VAT purposes
  - Need to consider whether supplies are subject to VAT
  - If supplies are VAT exempt, generally no recovery of VAT suffered (including on foreign services)
  - BUT limited exception investments in certain non-EU financial assets

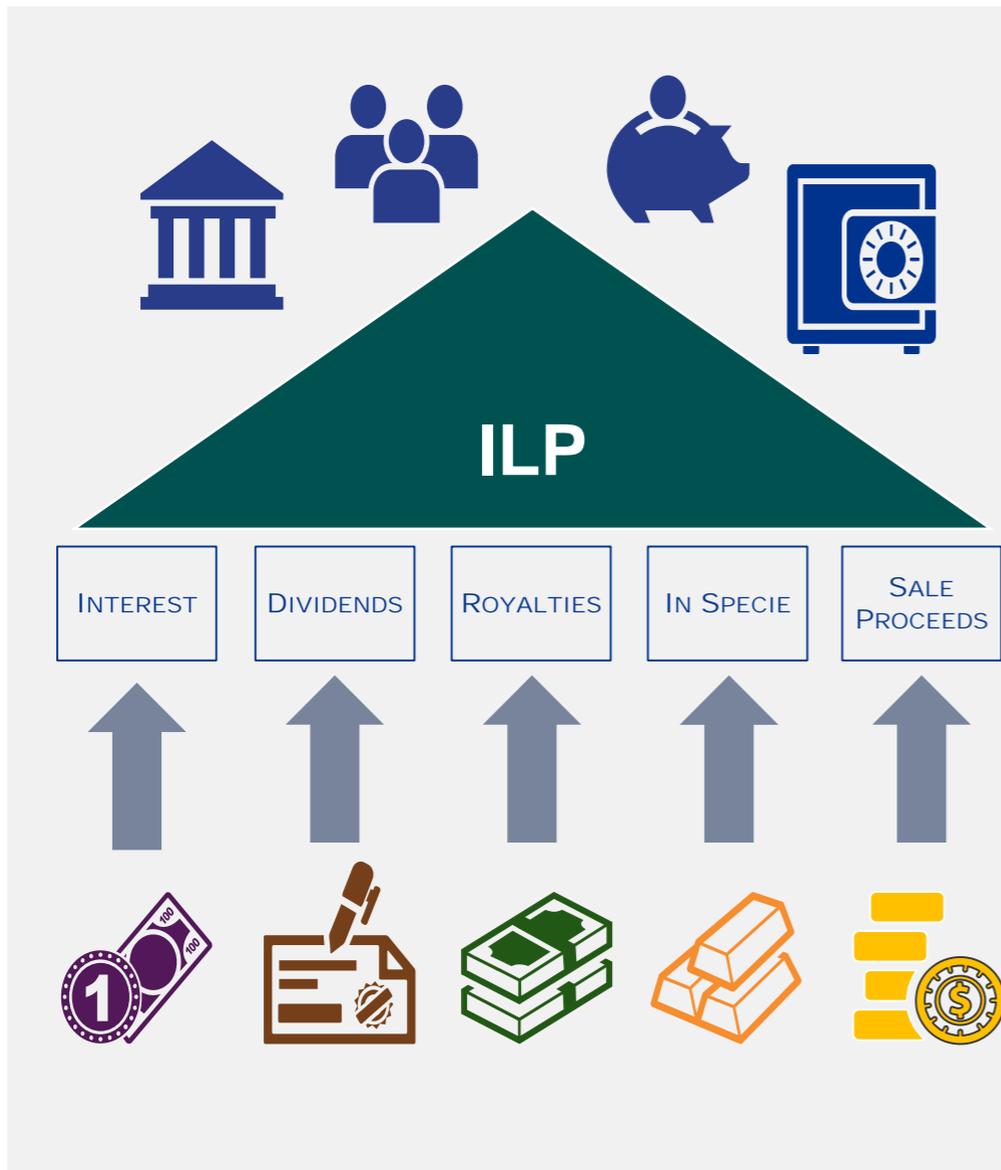


## KEY PRACTICAL QUESTIONS

- Are there any filing requirements in relation to the split of profits / gains between investors?
- Is an ILP treated as transparent in each investment jurisdiction or could it have filing requirements?
- Can an ILP be grouped with its GP for VAT purposes?
- Is the ILP transparent or opaque in investor jurisdictions? If not, could it be a “reverse hybrid”?



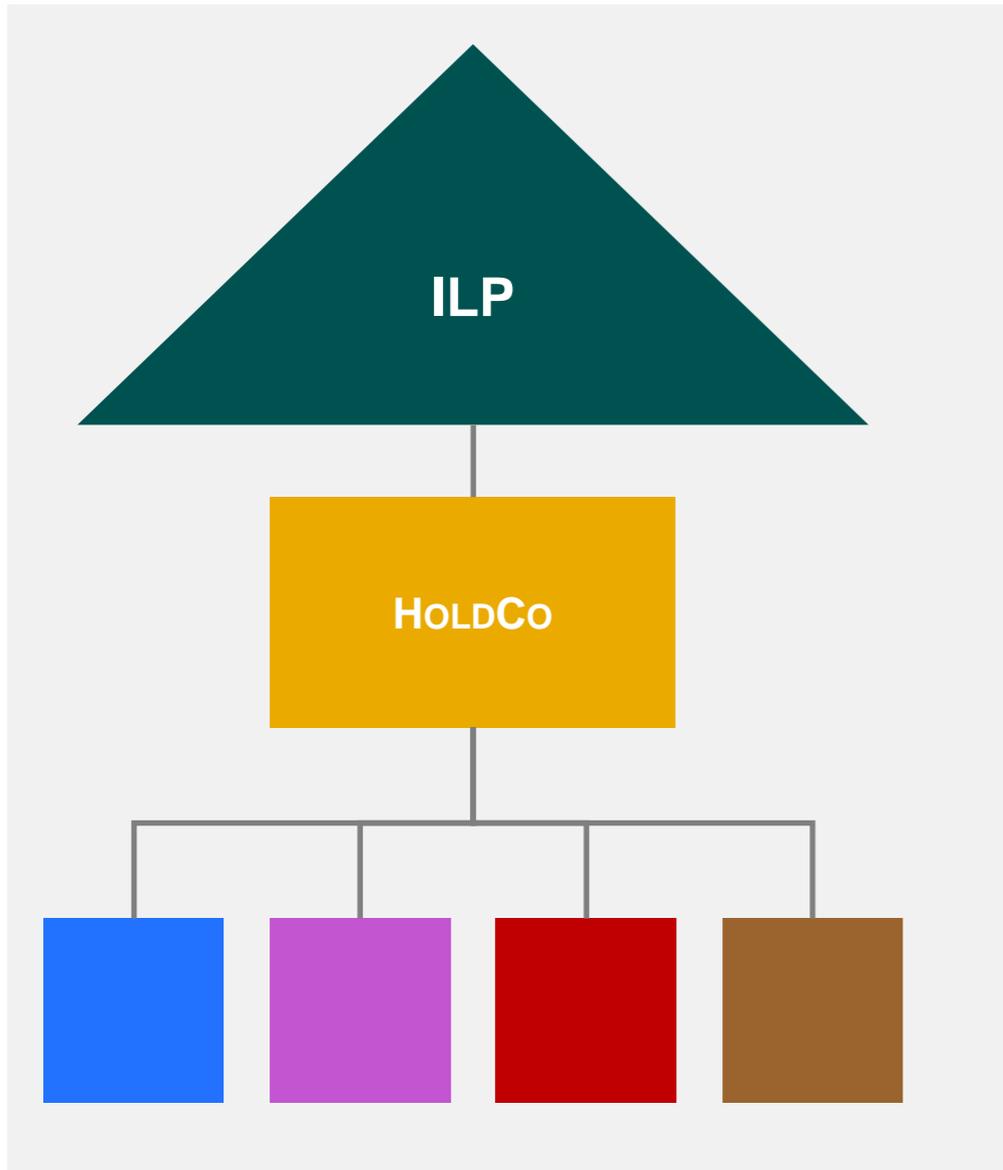
# Investment level tax considerations



## INVESTMENT LEVEL

- Partnership transparency (look through treatment):
  - Are treaty reductions, sovereign exemptions, etc. available based on investor profile?
  - How to administer treaty claims?
- Allocation vs. socialisation of tax costs?
- Investment strategy – is the asset class likely to trigger foreign taxable presence concerns for the ILP (and therefore its investors)

# Investment level tax considerations



## HOLDING VEHICLES – RATIONALE

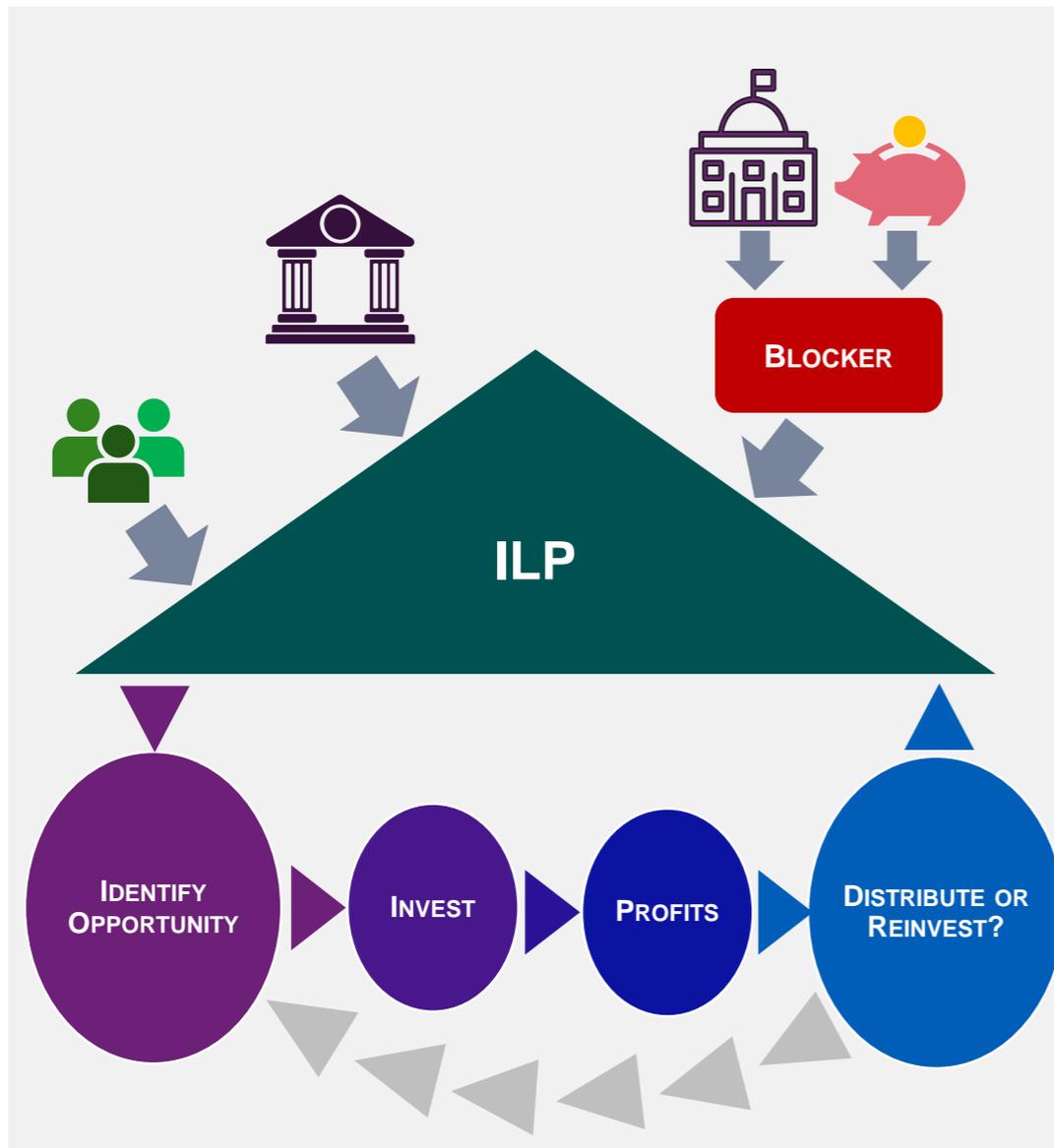
- Some partnership funds use subsidiary holding companies for a number of reasons, including:
  - Minimisation of compliance obligations at investment level – simplification of withholding tax administration for single claimant
  - Layer of additional limited liability protection for investors
  - Allows more efficient “recycling” of profits generated from investments
  - Holding companies can be useful for contracting with investment counterparties (e.g. external financiers)



## PRACTICAL CONSIDERATIONS

- Will treaty benefits be available? (BEPS, payer jurisdiction substance rules, etc)
- Possible loss of treaty benefits / exemptions for some investors
- Profit taxes or withholding taxes in holding company jurisdiction?
- Convert capital gains into income?
- Additional cost & administration

# Investor level considerations



## INVESTOR TAXES

- Partnership transparency (look through treatment)?
  - “Dry” tax on income & gains before distributions?
  - Retain capital gain treatment on sales, etc.
  - Deductibility of partnership costs (financing, fees, etc.)?
- Fund reporting requirements (in many jurisdictions)?
- Allocation of tax costs and tax credits?
- Filing requirements in investment jurisdiction?

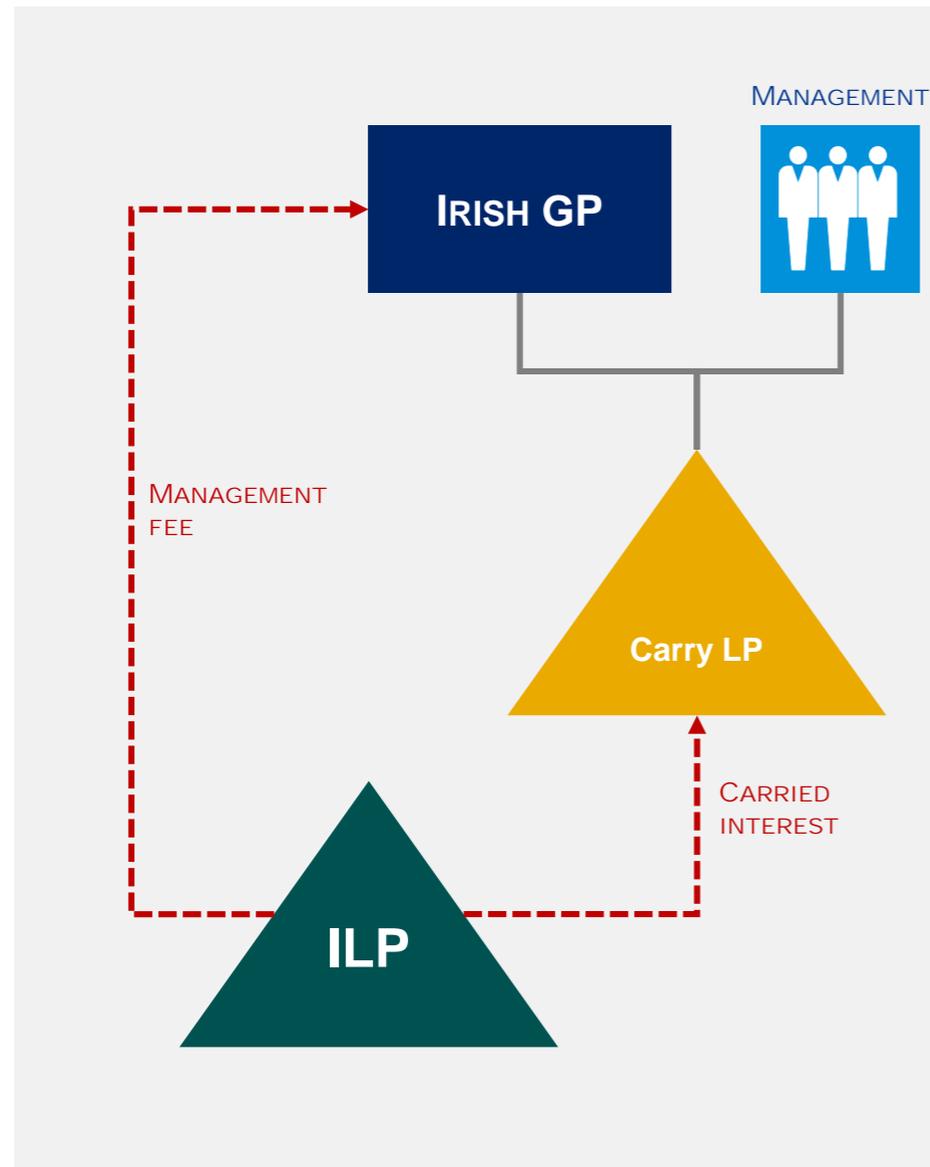


## US INVESTORS

By default most partnerships transparent for US tax purposes

- US taxable investors typically want transparency
- US tax exempts typically want opacity
- May need “blocker” feeder funds
- ILP could elect to be treated as a corporation for US tax purposes – could be “reverse hybrid”

# Manager level tax considerations



## MANAGER LEVEL CONSIDERATIONS

### Will manager have to charge VAT on its services?

- Irish VAT exemption for fund management of regulated funds

### As supplies are VAT exempt, generally no recovery of VAT suffered (including on foreign services)

- BUT possible to “look through” and apply same recovery methodology as the fund being managed

### Taxation of carried interest?

- Fee vs. partnership share?
- Treatment of claw-backs?

### Pass-through of benefit to key personnel?

### Taxation of the GP

# Building a structure – strategy specific considerations



## CREDIT

- What is the strategy? – origination / secondary / CLO Origination can give rise to additional structure complexities and need for blockers
- Investment jurisdictions – will there be withholding tax on return? – an investment holding vehicle below ILP may reduce administration



## PRIVATE EQUITY

- A holding company below the fund is normally commercially required. Substance requirements and international developments will need to be considered
- Financing approach – many jurisdictions now have thin capitalisation / interest limitation legislation



## REAL ASSETS

- Real assets can trigger taxable presence concerns in some jurisdictions – investment holding or blocker entities will likely be required
- Financing approach and exit considerations should be modelled at outset, taking into account evolving tax landscape

# Operational considerations - valuation

# Valuation Issues



## Third Party Valuation Assistance

- Increased use of third party valuation specialists
  - AIFM rules require independent valuations
  - Auditors increasingly require use of third party specialists
- 2 stage involvement typically – at time of investment and then updates
- Third parties no longer restricted to post-year end audit support
  - Valuation firms participating in monthly or quarterly valuation committee meetings



## Valuation Guidance

- IPEV Guidelines
- AICPA Accounting and Valuation Guide *Valuation of Portfolio Company Investments of Venture Capital and Private Equity Funds and Other Investment Companies*

# General Valuation Issues

- **Adopting a commercial not a compliance perspective**
  - Investment committee materials, due diligence, etc
- **Calibration central to the approach**
  - There are a range of assumptions that might be supported in valuing private assets
  - Critical to anchor the starting assumptions to the transaction price
  - Monitor changes in observable inputs post-investment
- **Incorporating the features of the security**
  - Complex capital structures
  - Valuation of warrants
  - Downside protection features
- **Exits**
- **Environmental, Social and Governance**
  - Increasingly important but developing



# Current Valuation Issues

- **Covid-19** 
  - Effects vary by sector, e.g., travel and hospitality vs IT
  - Formal distress vs changes in expectations
  - Effects of varying support programs across countries (direct / central bank support)
  - Shape of a recovery
  - Changes in approaches and metrics, e.g., NTM multiples vs LTM multiples
- **Discount rates**
- **IFRS 16**
  - Comparing companies with different lease obligations
  - Conceptual and data issues



# Operational considerations - operating model

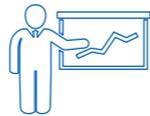
# Connecting the strategy through front, middle & back office...

01



**Set strategy based on ambitions in the market and competitive landscape**

02



**Translate strategy into a commercially attractive value proposition & business model**

03



**Design the North Star Customer Journey needed to win in the market**

04



**Define the Target Operating Model architecture to support value proposition**

05

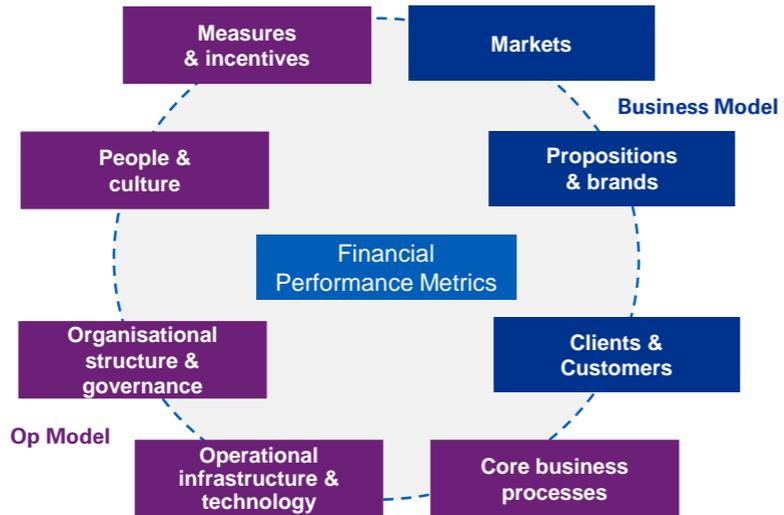


**Plan the Connected Transformation needed to deliver your ambitions**

Define the winning strategy

Develop the execution blueprint

**The Nine Levers of Value** is a holistic approach to strategy and business model design



The **Connected Enterprise Transformation Framework** has delivered 2x the results of traditional delivery approaches when adopted by our clients as a blue print their transformation

Our approach connects Strategy & Design to Transformation  
 ← Holistic approach →



# Digital differentiation through increased efficiency and effectiveness

There are many ways for ILPs to use technology to get the most out of their business by improving customer experience and driving efficiencies across the front, middle and back office.



**Regulatory Enablement**

Regulatory reporting is becoming an ever increasing burden in the market. Those who are able to leverage **workflow and RPA solutions** to organise data, automate reporting and facilitate distribution of filings to the regulator will gain a significant competitive edge.



**Data & Intelligence**

Asset servicers can offer services related to centralisation of data, and develop **technology driven real-time solutions** (robo-advice, AI, machine learning).



**Digital Client Experience**

Driving best in class client experience through industrialization. Building up **shared service centers**, model marketplaces, economies of scale and **centers of excellence**.



**ESG & Sustainability**

Develop specific **ESG reporting solutions**, integration of ESG in documentation, and processes to measure sustainability risks could allow AMs to rate their investments as per **ESG indicators**.

**Compliance / Reg Watch tools**



**Risk Management tools used**



**Tools used for the oversight of delegates**





# Q&A





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