



MAPLES
GROUP

THE IRISH SECTION 110 SPV

For Investors, Arrangers
and Investment Managers

maples.com



IRISH SECTION 110 SPECIAL PURPOSE VEHICLE

The Irish Section 110 Special Purpose Vehicle (the “Irish SPV”) has established itself as a leading structuring choice for a wide range of securitisations, structured products and programmes, credit strategies and investment platforms across European, UK, US and other international markets.

Usual Structure

Most commonly, the Irish SPV is incorporated as a designated activity company (or “DAC”, a form of Irish private limited company that can offer listed debt securities), while a public limited company is required for retail offerings. The company is then structured to qualify under a taxation regime in Ireland known as “Section 110”.

The Irish SPV is subject to ordinary Irish company law and is represented by a board of directors which retains overall responsibility for managing the business of the Irish SPV. The Irish SPV appoints other service providers as required to implement the transaction or strategy for which it has been established and to manage its commercial affairs (for example, a collateral or investment manager).

All Irish corporate administrative services can be provided by a registered corporate service provider; such services will include directors, company secretary and preparation of accounts, local tax compliance and applicable regulatory reporting.

As an Irish tax resident company, the Irish SPV can avail of Ireland’s sophisticated and business-friendly environment. It is served by a deep market of supporting businesses and experienced service professionals. As an EU member state, Ireland benefits from single-market membership whilst leveraging its common law system and established relationships with key markets in the UK and US.

Structuring Flexibility

The Irish SPV can operate as a standalone entity established for a single transaction or as a multi-series issuer holding multiple portfolios on a contractually segregated basis. The Irish SPV may face investors directly or be established as an asset-holding subsidiary or investment vehicle of a master fund entity (whether Irish, Luxembourg, Cayman Islands or other leading fund domiciles).

The Irish SPV can be structured to suit all major securitisation and structured products, as well as a broad range of investment and credit strategies. It can hold most forms of financial assets as well as commodities, carbon credits and plant and machinery.

While it can be subject to regulation depending on its activities, the Irish SPV is not regulated per se or a regulated fund product. It is very cost efficient to both establish and maintain. It has full contractual freedom; for example it is not subject to leverage limits or other product level restrictions. While it must satisfy the qualifying tax requirements of Section 110 in Ireland, these facilitate most strategies and products (e.g., there is no restriction on active management or qualifying investor requirements).

SUCCESS OF THE IRISH SPV

The Irish SPV has established itself as the most popular vehicle for European strategies and asset-classes. At the end of Q4-2022, a total of 3,293 Irish SPVs (which qualified under Section 110) collectively held €1,025.3 billion in assets and represented 31.4% of the Euro area SPV market share.

#1

IRISH SPV LEGAL
ADVISER SINCE 2016

Source: Atlantic Star Consulting

#1

IRISH SPV CORPORATE
ADMINISTRATOR
SINCE 2016*

*#2 in 2020
Source: Atlantic Star Consulting

800+

IRISH SPVs CURRENTLY
ADVISED BY MAPLES
AND CALDER

As at 31 December 2022
Source: Atlantic Star Consulting

700+

IRISH SPVs CURRENTLY
ADMINISTERED BY
MAPLES FIDUCIARY
SERVICES

As at 31 December 2022
Source: Atlantic Star Consulting

31.4%

OF EURO AREA SPV
MARKET SHARE

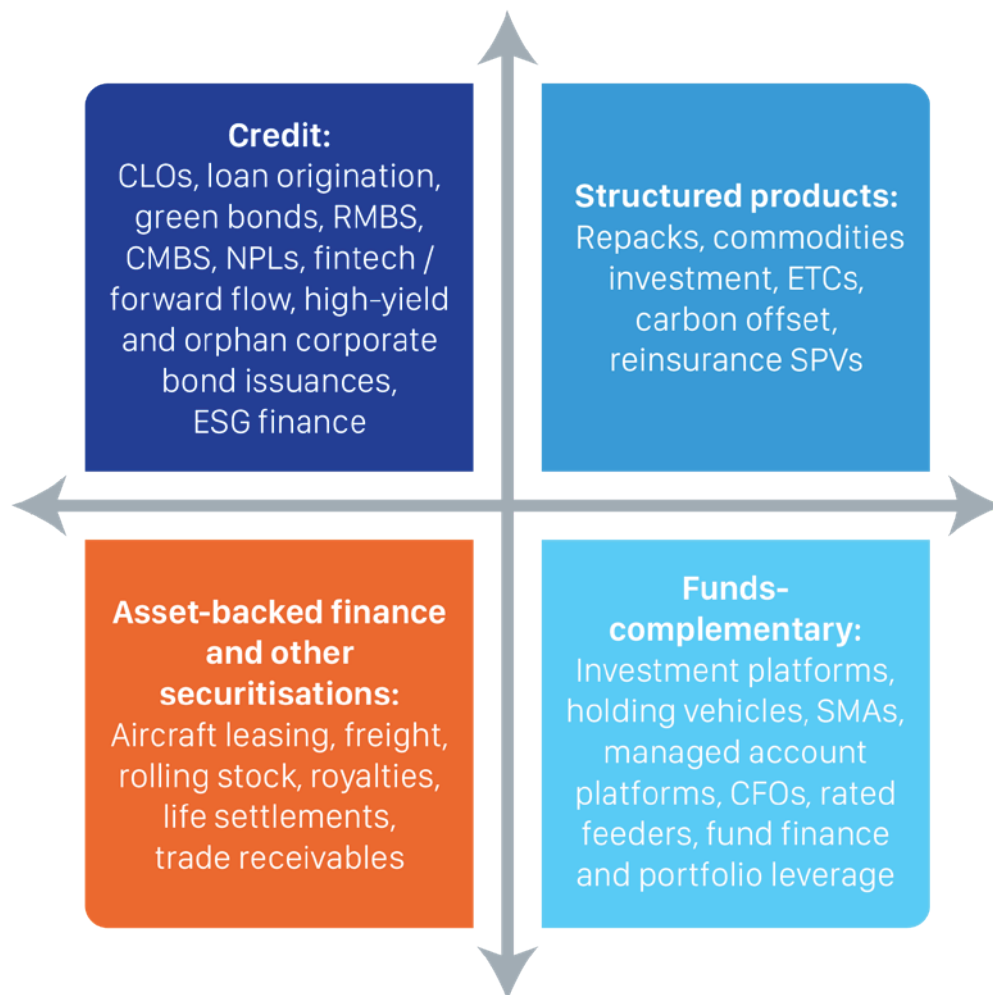
As at Q4 2022.
Source: Atlantic Star Consulting

€1,025 B+

ASSETS

As at Q4 2022.
Source: Atlantic Star Consulting

SECTORS AND STRATEGIES



KEY FEATURES OF THE IRISH SPV

Not Regulated per se

The Irish SPV is incorporated and operates as an ordinary limited company under Irish company law. It registers with the Revenue Commissioners of Ireland (the "Irish Revenue") and reports portfolio data to the Central Bank of Ireland (the "CBI"), but is not subject to a domestic securitisation law or other registrations or licences, unless its designated activity brings it within the ambit of particular regimes (e.g. the EU's Securitisation Regulation, Market Abuse Regulation or Prospectus Regulation).

Low-Cost and Quick Set-up

The Irish SPV is very efficient to establish and has low annual running costs. For example, outside of Irish corporate services, bank accounts and FS audit, it requires no service providers or infrastructure other than required for a particular use-case or as expected by a given market (e.g. a notes and security trustee for a public ABS). There are no profit retention or thin cap requirements.

As there are no licence or authorisation hurdles, the only timing constraints are incorporation (5 BDs), counterparty KYC and negotiation lead-time for contracts. In practice, time from initial instruction to transaction closing is driven by market practice in a given sector.

Market Access

The Irish SPV accesses a wide range of markets, whether benefiting from Ireland's EU membership; its proximity, commonality and historical ties to the UK and US markets; or Ireland's extensive double-taxation treaty network.

Regulatory and Tax Environment

The Irish SPV industry is represented in Ireland by the Irish Debt Securities Association ("IDSA"), of which we are a founding member. The industry is increasingly recognised as a core part of Ireland's financial services industry and strategy; for example, in supporting the wider ecosystem of Ireland's world-leading regulated funds and aviation finance sectors. Where subject to a regulatory overlay by the CBI, the Irish SPV benefits from a sophisticated investment markets regulator with a strong reputation for investor protection.

Tax

The Irish SPV is an ordinary trading company for Irish tax purposes, taxed at 25% on its nominal Irish annual net income. Where the entity qualifies for Section 110, then, with appropriate structuring, this profit figure is typically a reserved amount of €1,000 to €5,000. The Irish SPV is opaque for tax purposes, meaning it is able to access international double-tax treaties.

**Single Cell /
Contractual
Segregation**

The Irish SPV is a single-cell entity. Where a multi-series or multi-portfolio entity is required, the Irish SPV achieves this through contractual segregation rather than statutory segregation or multi-cell legislation. While some investors prefer statutory segregation, in practice this has not been an establishment driver and Irish contractual segregation is viewed as robust by all stakeholders including, for example, rating agencies on investment bank global repack platforms.

**Bankruptcy
Remoteness**

The Irish SPV is typically structured to be bankruptcy remote, meaning it is insofar as possible insulated from the bankruptcy of other stakeholders in the transaction. This is achieved by its shares being held by an Irish share trustee on charitable or "orphan" trust (so as to be protected from the insolvency of its shareholder), unless established as a subsidiary of an investment fund. All contracts are entered into on a limited recourse and non-petition basis, such that the finance provided to the Irish SPV is truly asset-backed. Irish company and insolvency law is robust from a creditor perspective.

Issues Debt

The Irish SPV only issues debt securities or borrows a loan facility from its investors. Typically the Irish SPV will issue a subordinated debt tranche with a profit-participating coupon. These can be structured as necessary to fit nearly all use-cases, including for example NAV-based notes. It does not issue fund units, shares, partnership or other interests.

HEADLINE TAX POINTS FOR IRISH SPVs

No Withholding Tax

Ireland imposes withholding tax on interest. However, Irish SPVs enjoy a range of exemptions. Payments to residents in EU or double-tax treaty jurisdictions are exempt, as is debt which is listed on a recognised stock exchange.

Tax Treaty Access

The Irish SPV is a body corporate with separate legal personality. As such, the Irish SPV may be entitled to benefit from the provisions of Ireland's double-tax treaties, subject to the provisions of each treaty and the rules in the relevant treaty partner country in each case.

VAT Exemptions

The provision of certain standard services to Irish SPVs (e.g. investment management, administration, transfer agency, depositary etc) are treated as VAT exempt in Ireland. To the extent that the Irish SPV incurs Irish VAT on certain services it receives (e.g. audit and legal fees), it may recover a portion of this VAT based on its recovery rate.

Stamp Duty and Subscription Taxes

No stamp duty is payable in Ireland on the issue, transfer, repurchase or redemption of debt issued by an Irish SPV. No subscription taxes are levied by the Irish tax authorities.

Exchange of Information

Ireland is fully compliant with the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. Ireland has implemented the US FATCA regime, the OECD common reporting standard ("CRS") and Council Directive (EU) 2018/822 on mandatory disclosure for cross-border transactions ("DAC6"). Irish SPVs are thus capable of complying with international FATCA and CRS requirements. Provided the Irish SPV complies with its FATCA obligations, no FATCA withholding should apply on payments from US sources.

**US "Check-the-Box"
Options**

The Irish SPC may elect to "check-the-box" to be treated as a tax transparent partnership or a "disregarded entity" (rather than an opaque "per se corporation" for US federal tax purposes).

**Compliance
Requirements**

Irish SPVs are obliged to register with the Irish Tax Authorities to obtain a tax reference number and must file annual tax returns with the Irish Tax Authorities.

Tax Neutrality

Irish SPVs are subject to Irish tax rules which are compliant with the EU's Anti-Tax Avoidance Directives, such as anti-hybrid rules and the interest limitation. Specific advice should be taken on the application of these rules. There are a range of structuring options available to mitigate the impact of these provisions.

**Ireland's Network of Double-Taxation Treaties
(as at April 2023)**

Albania	Hong Kong	Panama
Armenia	Hungary	Poland
Australia	Iceland	Portugal
Austria	India	Qatar
Bahrain	Israel	Romania
Belarus	Italy	Russia
Belgium	Japan	Saudi Arabia
Bosnia Herzegovina	Kazakhstan	Serbia
Botswana	Kenya*	Singapore
Bulgaria	Korea (Republic of)	Slovakia
Canada	Kosovo*	Slovenia
Chile	Kuwait	South Africa
China	Latvia	Spain
Croatia	Lithuania	Sweden
Cyprus	Luxembourg	Switzerland
Czech Republic	Macedonia	Thailand
Denmark	Malaysia	Turkey
Egypt	Malta	Ukraine
Estonia	Mexico	United Arab Emirates
Ethiopia	Moldova	United Kingdom
Finland	Montenegro	United States of America
France	Morocco	Uzbekistan
Georgia	Netherlands	Vietnam
Germany	New Zealand	Zambia
Ghana*	Norway	
Greece	Pakistan	

* Not yet in effect

HEADLINE LEGAL POINTS FOR IRISH SPVs

AIFMD

The Irish SPV is not an AIF or AIFM under AIFMD, whether on a primary analysis under Irish implementing law, as a result of accessing level one safe harbours (i.e. for securitisation vehicles) or relying on CBI guidance.

MiFID Status

The Irish SPV is typically a per se professional client under Irish MiFID. Where MiFID applies to the SPV (depending on its strategy / asset class), third country investment managers and arrangers without an Irish presence can typically provide MiFID investment services to the Irish SPV on a safe harbour basis (subject further to any eventual third country MiFID passport regime adopted at EU-wide level). A loan is not a MiFID financial instrument.

Securities Offer

The Irish SPV is subject to both domestic and EU-wide securities offer law (i.e. the Prospectus Regulation). While distinct, these are broadly harmonious and accessible safe harbours exist; compliance with these laws are usually subsumed within normal market procedures and documents. If an EU-regulated market listing is required or sought, the offering document will need to be a prospectus for EU law purposes and any EU market listing will mean the EU's Market Abuse Regulation will apply also. Depending on issuer status, the nature of the offering and listing venue, other regimes may apply also such as the EU's Transparency Directive.

Common Law Jurisdiction and EU Regimes

Ireland is a stable, common-law jurisdiction, similar and familiar to the UK and the US. The Irish SPV is subject to ordinary Irish company law and areas like corporate authority and capacity, director duties, insolvency and claw back risk will be familiar to sponsors and other stakeholders. Additionally, the Irish SPV benefits from a range of EU regimes which provide for legal certainty and facilitate their use in finance transactions (e.g. recognition of governing law and enforcement of judgments, COMI and certainty of location of insolvency proceedings, the Financial Collateral Directive etc.)

Securitisation Regulation

Where a securitisation for the EU's Securitisation Regulation exists, the Irish SPV is a "good" SSPE for such transaction, including for STS securitisations. An Irish SPV will also qualify as a good SSPE for a UK securitisation, including a UK STS. Ireland has not gold-plated its implementation of the EU regime. Post-securitisation closing, a notification filing is made to the CBI and currently there is no requirement to file Article 7 reports or event-driven notices with the CBI, but the Irish SPV will seek standard contractual comfort to grant the CBI access to this information upon request in order to meet the Article 7 regulatory requirements. And, absent a short notice filing made to the CBI post-closing, use of an Irish SPV in a securitisation will not impose additional operational requirements beyond the typical market setup.

ESG

As the Irish SPV is not a regulated investment fund, it is not typically subject to the EU's Sustainable Finance Disclosure Regulation ("SFDR"). However, some EU CLOs (for example) are being sold as SFDR-aligned on a voluntary basis. Depending on the asset classes in the SPV and the status of the investment manager, SFDR may apply. Most global managers will simply adopt their global ESG compliance approach to all mandates in any case.

The EU Green Bond Standard is expected to apply in 2024 and will be accessible to green securitisation also. While a voluntary standard, its taxonomy-harmonisation with SFDR is expected to increase adoption. The Irish SPV should be well-placed to be the issuance vehicle of choice for GBS offerings, particularly given the dominance of the Irish main market and Euronext's Global Exchange Market for securities listings and offerings, both generally and in existing ESG markets. Further, given Ireland's global investment funds hub status, using an Irish SPV for a green bond issuance will have the benefit of regulatory alignment for both buy-side and sell-side.

Other Compliance Requirements

Depending on its activity, the Irish SPV may become subject to various Irish and EU regimes (see examples below), compliance with which is usually delegated among the Irish SPV's various services providers.

1. Anti-money laundering: applicable where an Irish SPV is engaged in loan origination or financial leasing.
 2. Irish credit reporting: applicable where an Irish SPV makes or owns loans to Irish persons.
 3. EU EMIR: applicable where an Irish SPV enters swaps or hedging. The Irish SPV will typically be a non-grouped NFC, meaning its swaps will not need to be cleared.
 4. Credit servicing (Irish and EU): applicable where the Irish SPV acquires certain non-performing loans.
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CORPORATE ADMINISTRATION SERVICES

Our Fiduciary Services team provides all key services required from an Irish perspective to operate the Irish SPV throughout its lifecycle from incorporation to liquidation, including:

- Provision of Irish resident directors.
- Registered Office services. Including non-exclusive telephone, facsimile and postal address in Ireland.
- Company Secretarial services. Including co-ordination of regular board meetings to support the Irish tax residency status, maintenance of statutory books and records, and assistance with the company's statutory filing obligations with the Companies Registration Office.
- Shareholder / Share Trustee services. Provision of a shareholder to hold legal title to the shares in the Issuer and a share trustee to hold the beneficial interest of those shares on trust for charitable purposes under the terms of a declaration of trust.
- Financial statement assistance. Including preparation of the annual statutory financial statements (under IFRS or Irish GAAP) and liaising with the auditors in respect of preparation of annual audited financial statements.
- Day-to-day administration. Including assistance with the opening and operation of bank accounts, making periodic requests for tax residency certificates from the Irish Revenue and general day to day administration services.
- Cash Management services.
- CBI FVC/SPV Regulation statistical data portfolio reporting.
- CBI Central Credit Register Regulation reporting services.
- CBI AML Schedule 2 Firm Regulation services.
- Preparation and filing of Irish Corporation tax, iXBRL, PAYE, and VAT returns as required.
- FATCA / CRS services.
- EMIR compliance services.
- Beneficial ownership registers.

KEY TRENDS FOR IRISH SPVs

Fund Platforms

The Irish SPV has gained significant traction with fund platform and / or managed account promoters. Used in conjunction with successful Irish-regulated fund products such as the ICAV and the revamped Irish Limited Partnership (“ILP”), the Irish SPV is also employed in combination with other fund jurisdictions such as the Cayman Islands and Luxembourg.

The Irish SPV is often used for specific asset-holding purposes due to local market or other requirements. Similarly, it may be used to raise and compartmentalise leverage or hold significant portfolios of assets in a segregated fashion. This allows for a sale of the SPV without disturbing legal title on the assets (e.g. by selling the Irish SPV or the profit participating notes by which it is funded).

If the Irish SPV is established as a subsidiary of an Irish fund, it will need to comply with the CBI's subsidiary rules and effectively forms part of the fund.

Single Managed Accounts and Managed Account Platforms

The Irish SPV is also often used by fund managers to offer investors Single Managed Accounts, either on a growth or smaller ticket basis, given its lower operating costs. It is also increasingly popular with investment banks and other providers of Managed Account Platforms (“MAPs”) given its flexibility of investment strategy and its overall lower regulatory and cost impact compared to a regulated fund product (e.g. no clearing under EMIR and no requirement for an AIFM, depositary or fund administrator).

MAPs in particular continue to grow in popularity, as both investor and manager awareness and appreciation of their benefits increases, and Irish SPVs continue to be used by some of the leading providers in the market.

Loan Origination / Credit Strategies

The Irish SPV is a commonly used vehicle for loan origination and credit strategies, most notably in recent years in the Fintech and forward-flow sectors (both for warehouses and public takeout / ABS).

Currently subject to EU trilogue negotiation, AIFMD 2.0 is set to introduce a pan-European loan origination rulebook for regulated investment funds, including an expected risk retention rule for the fund to prevent “originate to distribute” fund models emerging. The Irish SPV should not be subject to this regime.

Global and Private Repack Platforms

The past few years has seen increasing numbers of new programmes established by the traditional global investment bank giants, challenger banks in that space and also a number of asset-manager private programmes.

The variety of trades and asset-classes also continues to expand, from Islamic Finance to private capital markets functions to several delta-one products.

Risk Retention

Structuring for and financing securitisation regulation risk retention continues apace, with increased complexity due to the split of the UK and EU markets post-Brexit and the increased rule-making assertiveness of the EU27. Irish SPVs continue to be established to satisfy EU / UK good originator requirements, to provide bespoke risk retention financing solutions and to raise capital from investors for risk retention strategies.

Listing Venue Competition

Listing venues continue to compete for Irish SPV note listing business, whether between regulated markets or multilateral trading facilities / recognised stock exchanges.

EU regulation can be both a push and pull factor on the choice of exchange. Some issuers prefer not to assume the cost of compliance that an EU-market exchange listing brings (e.g. Market Abuse or the Clearing Regulation), but the increasing cohesion of EU law across sectors creates its own imperatives at times (e.g., tax or investor eligibility impacts). Equally, while the risk profile differs, listing on a non-EU exchange still entails compliance with that exchange's listing rules, many of which are broadly similar as to announcement triggers.

Costs, efficiencies of process, investor reputation and stock exchange product sophistication continue to influence this choice. We act as listing agent and advise on the primary stock exchanges worldwide that Irish SPVs tend to use, where a listing is required.

THE MAPLES GROUP IRISH SPV EXPERTISE

The Maples Group has unrivalled expertise in the structuring, establishment and ongoing operation of Irish SPVs. Acting together with our Cayman Islands, Jersey, Delaware, Luxembourg and Netherlands offices, we provide global, jurisdiction-neutral advice and service driven by our deep market share and expertise across all our markets for the benefit of our clients.

LEGAL SERVICES

We are the leading Irish counsel in respect of structures using Irish SPVs, having advised on approximately 23% of all Irish SPVs established since 2012.

Our leading structured finance, aviation finance, tax, listing and funds and investment management teams often combine to provide best-in-class, cross-discipline advice to our clients.

Working together across these markets, and alongside our legal teams in our wider network, provides us an unparalleled overview of the Irish market and enables us to track all relevant information and statistics on the Irish SPV. As a full-service law firm, we provide relevant support throughout the fund cycle and on all core asset classes (e.g. Irish REF and fund finance, CRE, insolvency / litigation, data, corporate and employment).

FIDUCIARY SERVICES

Our Fiduciary Services division, MaplesFS is the largest corporate services provider in Ireland, with over 700 Irish SPVs under administration (excluding non-Section 110 aviation SPVs).

MaplesFS provide all required compliance and operational services required to run and maintain the Irish SPV (bar audit). With over 250 professionals located in Dublin, we differentiate our offering from our competitors with dedicated director teams (no-double hatting) and our integration with the global Maples Group.

#1

IRISH SPV LEGAL
ADVISER SINCE 2016

Source: Atlantic Star Consulting

800+

IRISH SPVs CURRENTLY
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As at 31 December 2022
Source: Atlantic Star Consulting

A large orange opening quotation mark.

Maples is very knowledgeable about the industry, it's like a business adviser as well as a law firm. The lawyers understand the industry to the next level...

It is a friendly, responsive and courteous team with a lot of experience in complex cross-border financings...

CHAMBERS GLOBAL

We work with Stephen McLoughlin and Cal Kennedy. Both are excellent, extremely responsive and know both the technical law and their markets extremely well. They are great fun to deal with and don't take silly points, having excellent judgement as to what is important on a deal that comes from seeing such a large swathe of their market...

LEGAL 500

Very switched on and keen team focused on the client experience...

IFLR

A large orange closing quotation mark.

CONTACTS

For further information on our services, please contact:

STRUCTURED FINANCE

Stephen McLoughlin

Partner, Head of Finance
+353 1 619 2736
stephen.mcloughlin@maples.com

Callaghan Kennedy

Partner
+353 1 619 2716
callaghan.kennedy@maples.com

TAX

Andrew Quinn

Partner, Head of Tax
+353 1 619 2038
andrew.quinn@maples.com

William Fogarty

Partner
+353 1 619 2730
william.fogarty@maples.com

Lynn Cramer

Partner
+353 1 619 2736
lynn.cramer@maples.com

LISTINGS

Ciaran Cotter

Head of Listing Dublin
+353 1 619 2033
ciaran.cotter@maples.com

FIDUCIARY SERVICES

Stephen O'Donnell

Global Head of Fiduciary Services
+353 1 697 3244
stephen.o'donnell@maples.com

Jarlath Canning

Senior Vice President
+353 1 697 3294
jarlath.canning@maples.com

Julian Dunphy

Senior Vice President
+353 1 697 3231
julian.dunphy@maples.com



The Maples Group is a leading service provider offering a comprehensive range of legal services on the laws of the British Virgin Islands, the Cayman Islands, Ireland, Jersey and Luxembourg and is an independent provider of fiduciary, fund services, regulatory and compliance, and entity formation and management services. We distinguish ourselves with a client-focused approach, providing solutions tailored to your specific needs. Our global network of lawyers and industry professionals are strategically located in the Americas, Europe, Asia and the Middle East to ensure that clients gain immediate access to expert advice and bespoke support, within convenient time zones.



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