Private Client

July update

29th July 2020


Succession planning
Inheritance planning
Personal tax compliance and planning
Financial planning

Transferring UK pensions to Ireland

Oliver O’Connor

Why transfer your UK pension to Ireland?

The following key considerations, while not an exhaustive list, can act as a guide in framing a decision on transferring your UK pension benefit to Ireland.

Residence

Is it your intention to remain resident in Ireland going forward? If so you may wish to have all your substantial assets in Ireland also.

Tax

What are the tax implications for you on the proposed transfer? In order to make a fully informed decision it is imperative that you are clear on any tax consequences of the transfer.

Currency

By having your pension in the UK you may have a currency exposure to sterling. The potential fluctuation in pension values, caused by the currency exposure, may impact your personal decision on transferring or not.

Management

Unless you have an existing relationship with a UK advisor, it is difficult to ensure your fund is being managed in line with your objectives. It may give you greater peace of mind to know your Irish advisor is responsible for the management of this fund.

Inheritance planning

Particularly if you have an existing Defined Benefit Pension it is important to consider the inheritance benefits of the options available to you.

What is a QROPS?

Qualifying Recognised Overseas Pension Scheme

QROPS is a pension product which has been registered with Her Majesty's Revenue & Customs (HMRC) and can accept pension transfers from UK without the potential for triggering a UK tax charge.

QROPS can accept pension transfers from the UK without potentially triggering a tax charge on the funds, up to the UK Lifetime Limit which has recently been raised to £1,073,000 for the 2020-2021 tax year.

Any pension savings you transfer into a QROPS in Ireland does not count towards your €2 million Standard Fund Threshold (SFT). The SFT only takes into account Irish earnings, therefore, in addition to the pension transferring from the UK you can, tax efficiently, save up to €2 million into a pension in Ireland.

The minimum retirement age on a QROPS is 55 (once you have left service) and therefore you may be able to retire the pension earlier than your UK scheme may allow. The maximum retirement age on a QROPS is 70.

Once the fund is moved to Ireland the fund can grow without incurring any additional tax charges for doing so, i.e. no additional life time limit taxes or chargeable excess tax.

Process

Engage with a financial advisor in Ireland.
If benefits are in a Defined Benefit scheme a UK advisor is also required.

Request Leaving Service Options and Transfer to Overseas QROPS forms from UK pension administrator

If it is a Defined Benefit Scheme over €30k a report based on your financial circumstances must be completed by an FCA approved UK advisor.

Understand and compare your benefits and options

Establish appropriate Irish Personal Retirement Bond (PRB)

Confirmation of approval from scheme trustees to transfer to Irish PRB

Accessing benefits

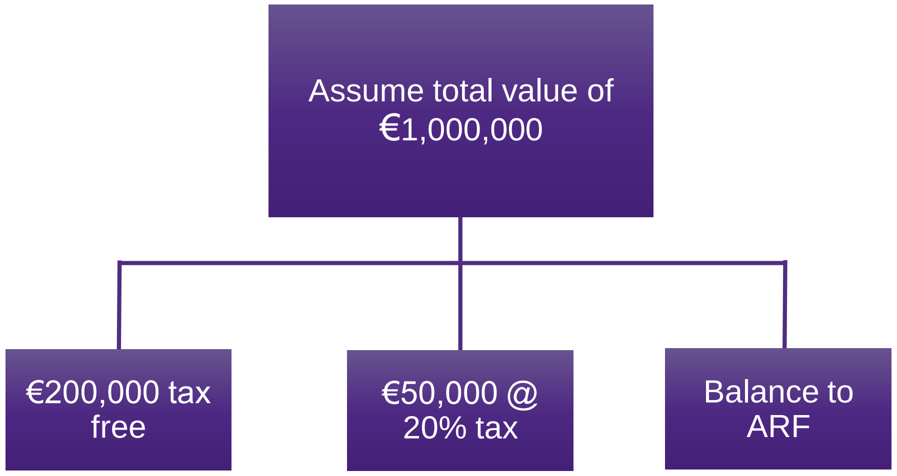
without incurring a tax charge from a QROPS to ARF

You are able to transfer your pension benefits from the UK to Ireland once you leave the UK however you cannot take payments from the pension without incurring HMRC tax charges until you are non UK resident for at least 10 years (10 year rule), or 5 years if the transfer occurred before April 6th 2017 .

Once you have transferred your money across to a QROPS approved pension in Ireland, you cannot transfer it to another pension for at least another 5 years, or else you will be subject to UK tax rules. The only exception to this is if you are retiring and on the basis that you comply with the 10 year rule as mentioned above (for all transfers received into a QROPs after April 6th 2017).

Taking a lump sum benefit from the scheme will count towards your lifetime limit for tax free lumps in Ireland i.e. first €200,000 tax free, up to a further €300,000 taxed at 20% under current rules.

Retirement and lump sum entitlement



Case study

The below case study relates to an existing case in which a client had a large defined benefit pension accrued in the UK, and resumed living in Ireland a number of years ago. If he was to transfer his fund back to Ireland, he would lose the defined benefit element of the pension, and take a transfer value which would be invested in a Personal Retirement Bond in his own name. The answer is not the same for every client, so it is important to assess your own needs and long term requirements.

Current age	65	**Retirement age of pension**	65	**Beneficiaries**	Wife and 2 children
UK defined benefit pension	£18,000 p.a.	**UK transfer value offered**	£500,991	**Other Irish pension funds**	€400,000

Key considerations	No immediate need for income or a lump sum – preference to maintain fund value and defer access until a later date Inheritance planning a key factor – although a 50% spouse's pension is attached to the DB, transfer proceeds would pass to spouse or children in the event of death Appetite for investment risk – happy to take on investment risk relating to transfer value, rather than a regular stream of income from defined benefit scheme Currency risk a factor – transferred funds into retirement bond, but held in Sterling investment until comfortable with conversion Management of funds – preference was to have the total pension managed by an adviser closer to home

Structuring your business/family assets

Úna A. Ryan

Key issues

Valuation of company – where connected parties – tax is calculated on market value of the assets

Low market values therefore mean lower tax liabilities for all parties

Current tax position is certain but impact of Covid-19 to be determined

Straight gift of shares / the business

Share Freeze – keep current value but future value arises to next generation

Shareholder Agreements

Family Constitution – who can be shareholders, protection against marital breakdown, restrict sale/transfer of shares

Tax Implications

Family Partnerships

Control access to assets and income

Realising value now

Family Partnership Agreement important

Tax Implications

Discretionary Trusts

Children might be too young or may have "issues"

Caring of incapacitated children / dependent relatives

Tax Implications but note tax exemptions for minors /incapacitated children

Share freeze overview

A share freeze caps (or freezes) the share value in the company at today's market value.

New shares (Class A) can be issued to the proposed family members in their desired proportions entitling them to any increase in the value of the company over the frozen value amount set.

Existing share rights are altered to cap the value attributable to those shares currently held by the parents.

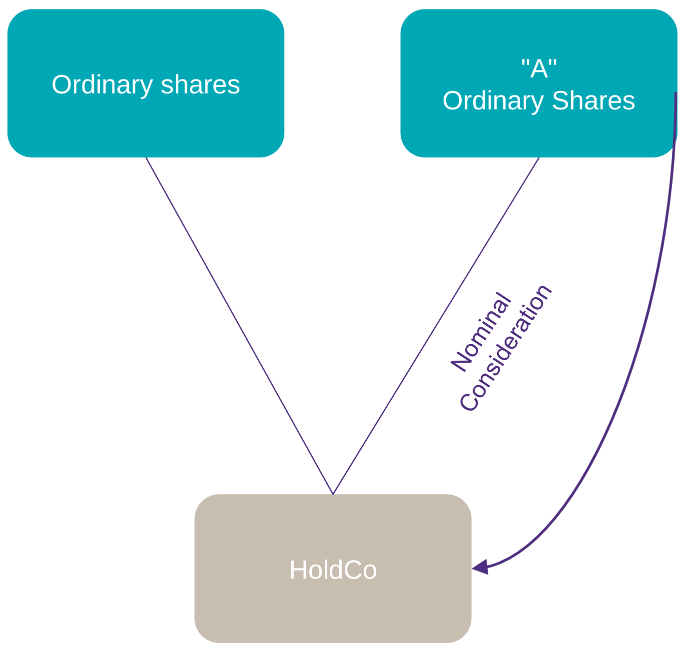
The new A shares receive the full growth benefit, and no future value goes to the existing ordinary shares.

The rights attributable to the A shares will need to be considered –

Rights to dividends

Voting rights

The new "A" Ordinary Shares can be issued at nominal value as not entitled to any value already built up.



CAT Implications

A charge to Irish CAT can arise under Section 6(2)(c) CATCA 2003 where there is deemed to be a gift of shares.

However, if the new shareholders are advancing funds (albeit at nominal value) in return for subscribing for the new "A" Ordinary Shares, no CAT charge should arise one value of shares is only par value.

It must be ensured that no historic/existing value in the company is shifted across to the new shareholders.

The existing Ordinary Shares have a value cap placed on them based on the current market value of the company.

When the children get the "frozen shares" on an inheritance they will suffer full CAT on this but at today's values as frozen shares.

Share freeze overview

Implications for Existing Shareholder

As outlined, the new “A” Ordinary Shares have full entitlement to any growth above an agreed baseline.

We would recommend that this agreed baseline includes an element of future growth accruing to the Ordinary Shareholders e.g. 10% of the current market value.

From a commercial perspective, the inclusion of this element of future growth accruing to the Ordinary Shareholders encourages retention of the Ordinary Shares. It also provides a buffer in respect of the agreed current valuation in the event of a Revenue challenge.

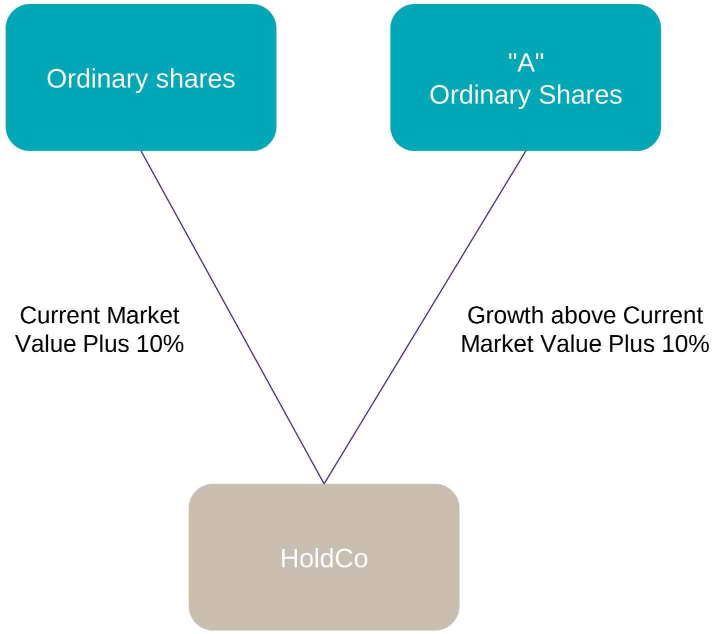
The agreed baseline should be documented appropriately through the new Constitution, Board Minutes etc.

Ultimate Exit

On a subsequent sale of the company, existing shareholders will get the capped value as first call from the sales proceeds.

The new shareholders will share in any gain related to the uplift in the value of the company above the agreed baseline from the date of issue.

Capital Gains Tax (current rate of 33%) will apply to the gain subject to any reliefs.



Family partnerships overview

A family partnership may be set up for the benefit of the children – general or limited structure.

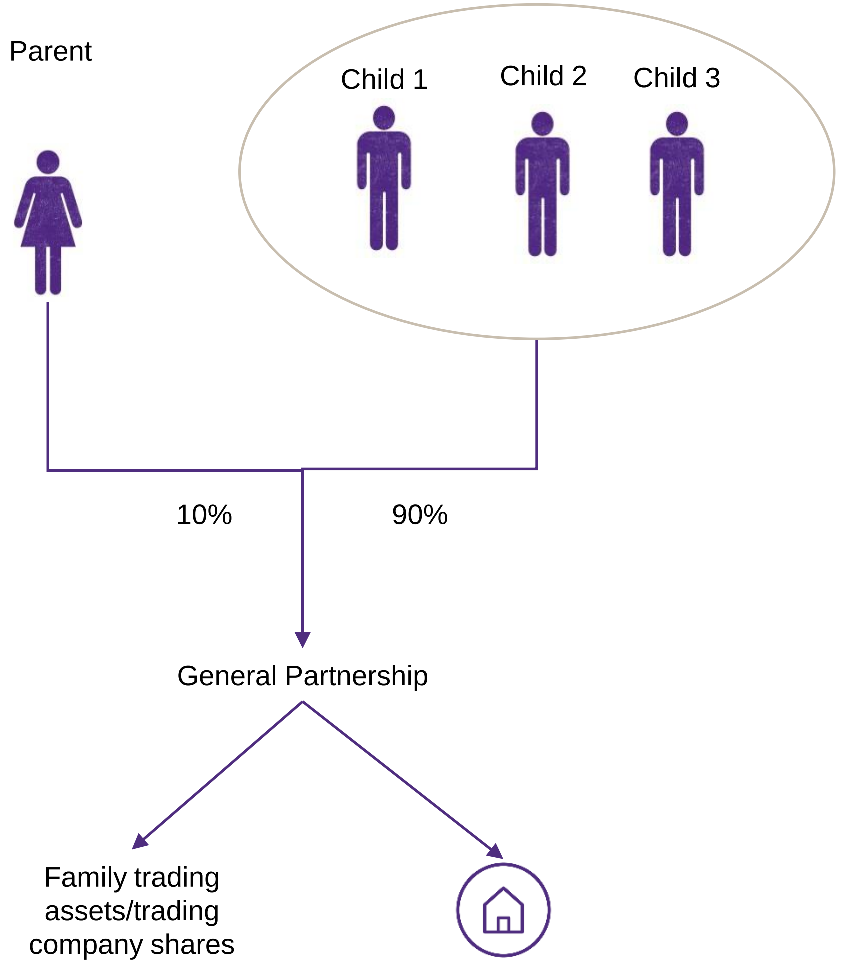
Assets that the parents believe will appreciate in value in the future can be transferred to the family partnership or funds to allow for purchase of assets.

Tax is computed at current market values, thus limiting the children's exposure to CAT as the value of the assets increase.

There should be no tax implications on the initial registration of the partnership, however the transfer of assets to the partnership will potentially attract a charge to Capital Gains Tax, Capital Acquisitions Tax and Stamp Duty.

Parent could gift cash to the children for them to contribute to the family partnership to purchase assets.

Careful legal drafting is essential when setting up a family partnership.



Family Partnerships - structure

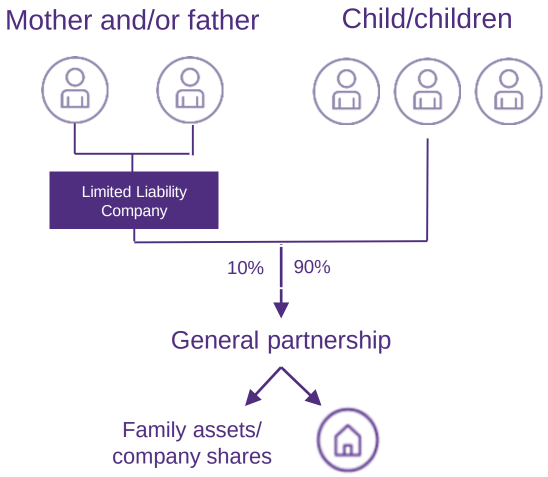
A family partnership can be limited or unlimited (general). Careful legal drafting of the partnership agreement will be essential.

Limited Partnership

Liability of all partners except for at least one is limited to the amount that the partner has contributed, meaning that they should not be liable for the debts of the partnership beyond their capped limit.

Requirements:

- Must register as a limited partnership;
- Must file annual accounts; and
- Must register trading name, if any, as a business.

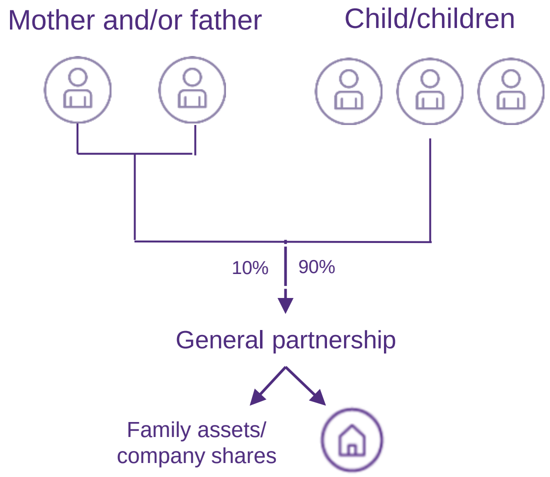


General Unlimited Partnership

Less administrative burden than a limited partnership, however every partner is liable for the debts of the partnership without limit. Personal assets of the individual held outside the partnership are not protected.

Requirements:

- No accounts filing requirement; and
- Must register trading name, if any, as a business.

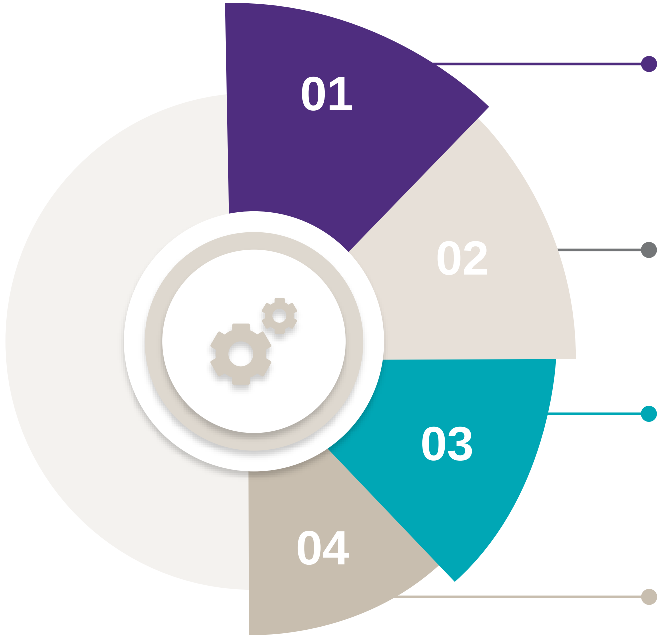


There are no tax considerations on the initial formation of either a general or a limited family partnership.

Family Partnership – purchase steps

The parents involved should identify assets/property which they consider to be appreciating in value for acquisition by the family partnership(s).

The main consideration is funding for the partnership to purchase the property.



Gift * cash to the children for contribution to the partnership. Category A tax free group threshold for each child of €335,000 can be utilized to mitigate the CAT liability.

Form the partnership and each partner makes a capital contribution. Provided each partner makes an equal contribution, there are no tax implications. For example, two parents with two children can each contribute €335k, totaling €670k. Each child will have €335k in their capital account going forward.
The partnership will register for income tax and file an annual Form 1 return with Revenue.

Purchase of an investment property by the partnership. Stamp duty rates applicable (1% - 7.5%)

Partners are subject to income tax on rental income. In the absence of any specification in the partnership agreement, profits will be split in the ratio of the capital contributions by the partners. However, where it is detailed in the agreement, rental income can be distributed as directed by the general partners. The general partners (parents) can direct that all income be distributed to the general partners only. This would generate an income stream for the parents and reduce tax burden on the children. Annual Form 11 filing requirements for each partner earning rental income.

Alternative to gifting the children cash to contribute to the partnership, parents can loan funds to the partnership to fund the acquisition. Loan conditions and repayment conditions require careful legal drafting. The partnership can repay the loan using rental income generated. The parents are not subject to tax on the receipt of loan repayments. Interest chargeable on the loan to be considered and tax on same.

Discretionary Trusts

A discretionary trust, for legal purposes, is essentially a trust in which the settlor transfers property to trustees and gives the trustees absolute discretion as to which beneficiary or beneficiaries from a class of beneficiaries specified in the trust deed is to benefit from the property held on trust. The trustees have absolute discretion as to the amount of the benefit the beneficiaries should receive and when they should receive it. The beneficiaries have no interest in the trust fund for legal or taxation purposes and have no right to either income or capital from the trust until such time as the trustees exercise their discretion to make an appointment from the trust.

Discretionary trusts can be useful mechanisms for transitioning wealth to the next generation in a structured and measured way. While there is an element of tax cost associated with discretionary trusts there can be a number of benefits, depending on the family's particular circumstances, for example:

— Where there is significant wealth it may not be desirable to pass the entire estate directly to the children as this may have a disruptive impact on them personally.

— By keeping assets in a single pot it allows greater scope for investments and protects family capital.

— Growth from investment (capital and income) should exceed the annual Discretionary Trust Tax 1% cost plus, over time, the one off 6% charge.

— The trustees can make distributions to beneficiaries as and when needed, perhaps at particular life stages/milestones.

— The trustees can review the personal circumstances of the beneficiary prior to making a distribution (financial position, marital relationship, health issues etc.) and make an informed decision as to how best assist that particular beneficiary.

Principles of investing

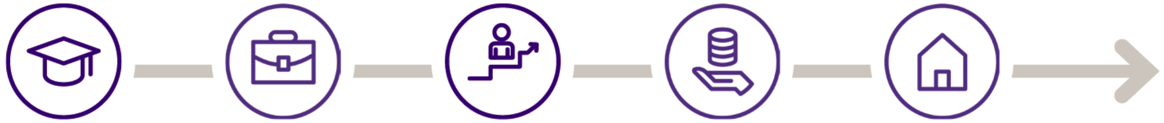
Liam Naughton

1. Objectives

Before making an investment decision, it is vital you identify what you are trying to achieve. Having objectives will give you the confidence and discipline to manage your emotions at times of uncertainty.

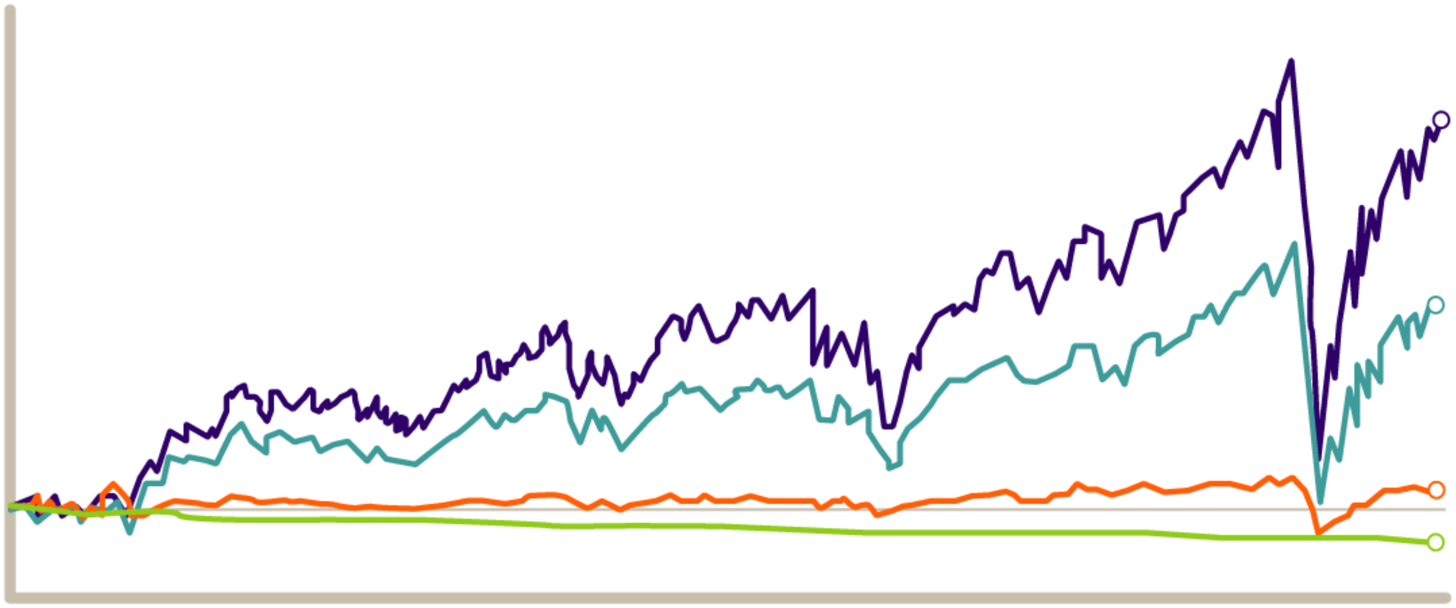
2. Time horizon

Time horizon can have a significant influence on your investment decisions, as it helps to identify your ability to absorb short term risk for the benefit of long term returns. Generally, a shorter term investment should be taking below average risk, with longer term investments taking above average risk, relative to each investor.



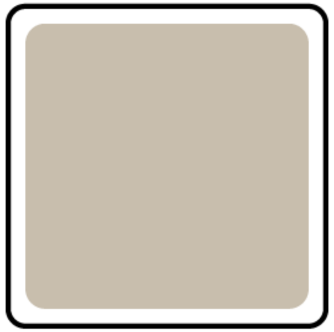
3. Risk tolerance

We all have different emotions and biases which influence our behaviour with money. Acknowledging how you react to investing in positive and negative environments helps to identify the types of investments which are right for you. Combining your objectives with time horizon and risk tolerance should set the base for any investment decision you make now and in the future.



4. Diversify

Diversification of, and within, asset classes can help reduce risk and smooth investment returns. Diversification across the various asset classes is key to identifying the right level of risk for you and your investment. Diversification within each asset class reduces risk which is specific to an industry or region.

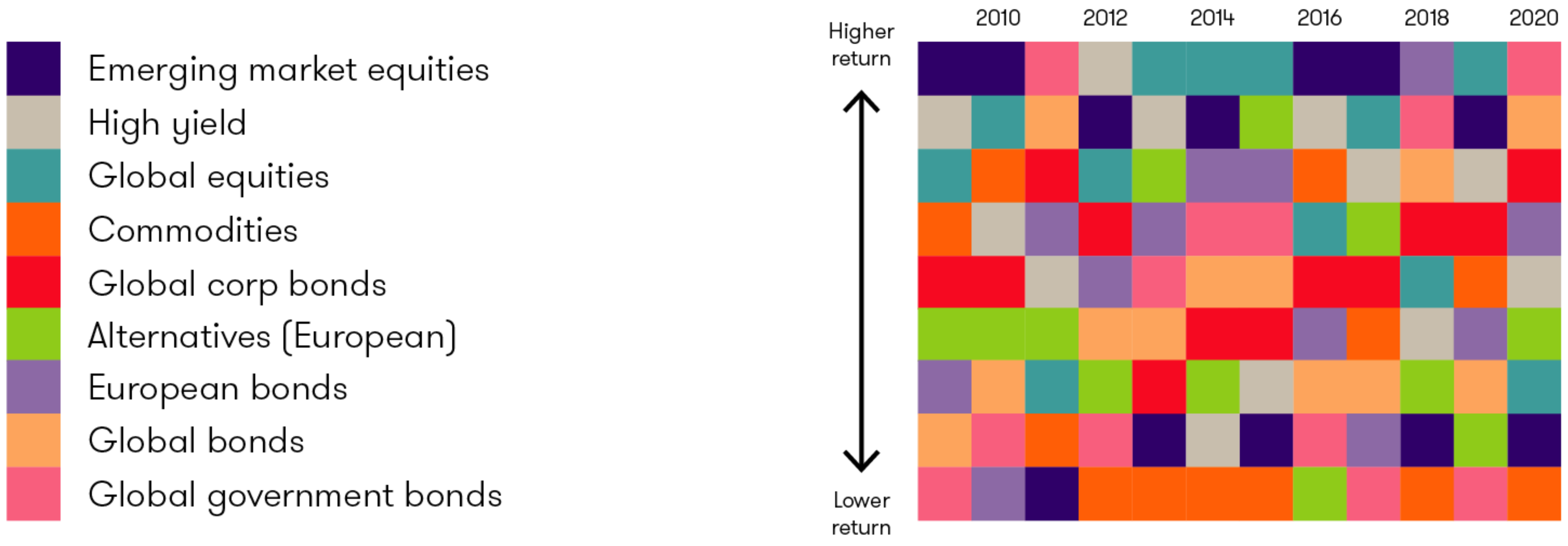


Irish Equity Fund
20-50 companies
One country

Global Stock Index Fund
>1,600 companies
23 countries

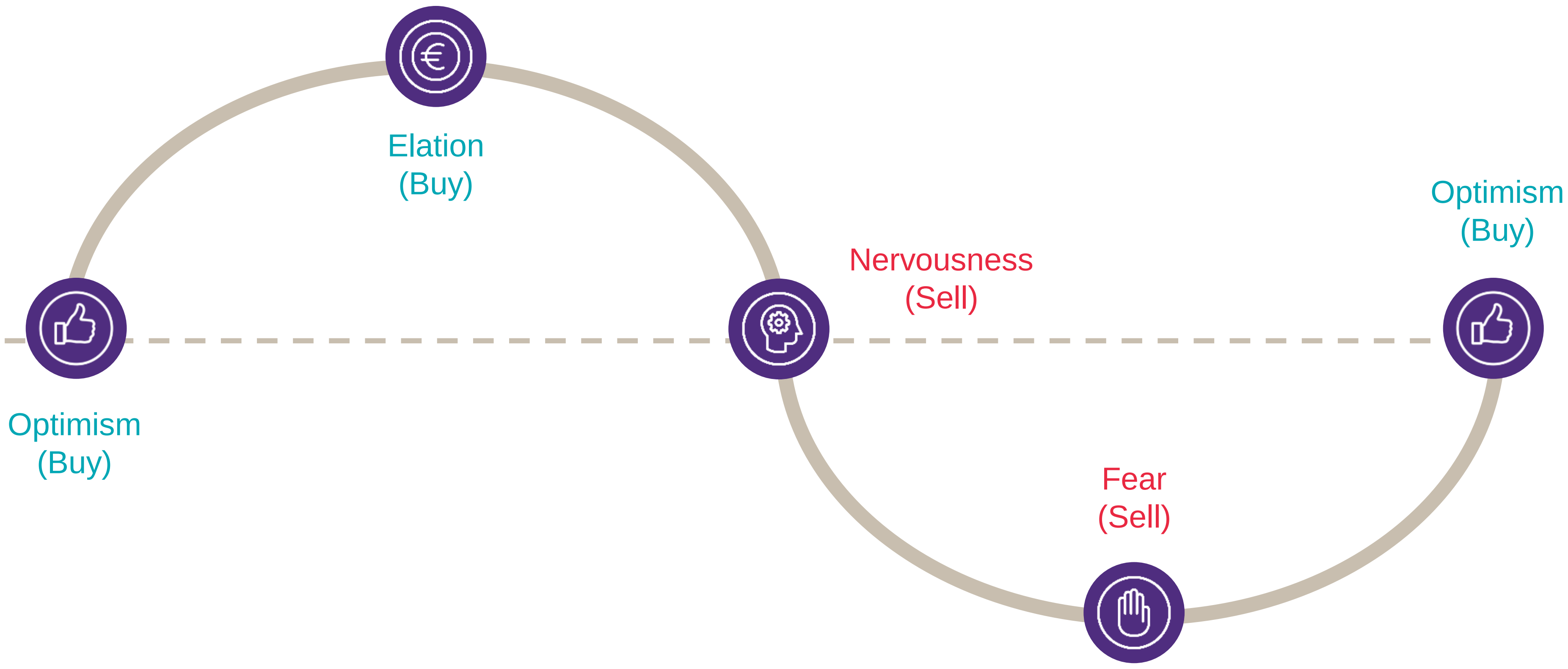
5. Avoid market timing

It is impossible to tell which asset class or sector will outperform in the years ahead. Global diversification within the right mix of asset classes will allow you to benefit from investment returns whenever and wherever they occur.



6. Manage your emotions

It can be difficult to separate your emotions from investing. Acting on these emotions can lead to irrational decisions which damage your investment's performance over the long term.



7. Filter through the noise

The constant stream of information through online platforms and 24-hour news can be overwhelming, and compel investors to be reactive with their investments. It is important to remember these sources are speaking to a general audience. They are not aware of your current objectives and long term goals, so do not let them influence either.

Stocks tumble on virus fears
February, 2020

Crash, bang, wallop
September, 2008

PANIC!
October, 1987

Stocks lose 10 billion in a day
October, 1929

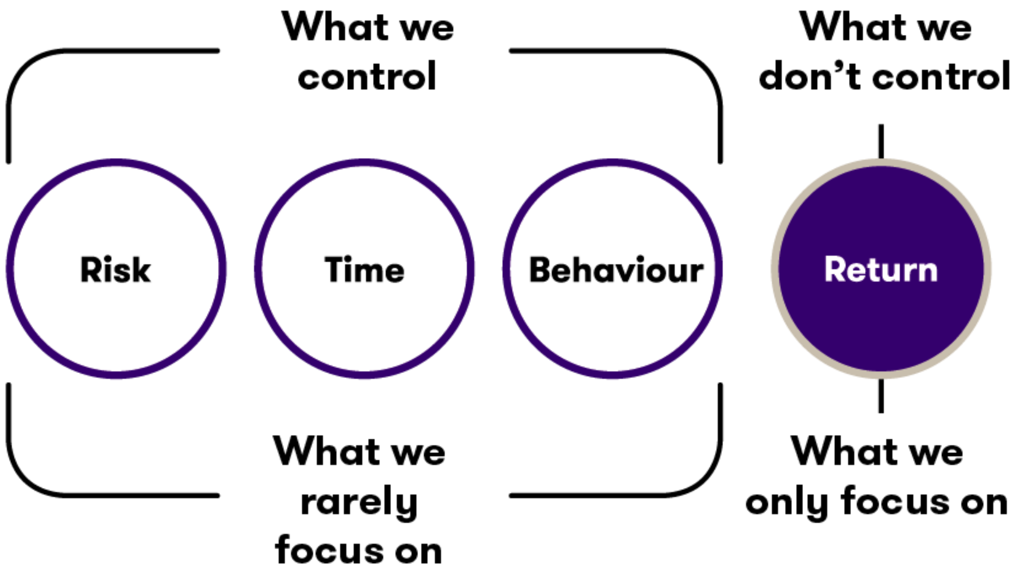
S&P 500 historical drawdowns

Peak	Drawdown	Drawdown length	1 year	3 year	5 year
Oct. 2007	-56.78%	517 days	72.26%	115.79%	208.77%
Oct. 1987	-33.51%	101 days	24.21%	62.27%	128.66%
Oct. 1929	-86.19%	1,026 days	171.20%	141.36%	296.91%

8. Focus on what you can control

As humans, we are drawn to chase returns and the next big winner. However, we have no control over the returns on offer in the future.

What we can do is ensure we give our investments the best chance of success by focusing on what we can control; time, risk and behaviour. This usually requires the help of a professional, to ensure human behaviour does not impact your long term returns and objectives.



privateclient@ie.gt.com

Our dedicated team

Oliver O’Connor

Partner - Private Client

D +353 (0)1 680 5679
M +353 (0)87 237 6152
E oliver.oconnor@ie.gt.com

Úna Ryan

Director – Tax

T +353 (0)1 6805 990
M +353 (0)87 785 5501
E una.ryan@ie.gt.com

Experience

Oliver joined Grant Thornton in 1998 as a trainee and appointed director in the Audit and Assurance department of the practice in 2003, before moving to Grant Thornton Financial Counselling. He is a director of Grant Thornton Financial Counselling Limited, the financial advisory arm of the practice, providing financial advice to both corporate entities and individuals.

Oliver has significant experience in structuring the personal financial affairs of company directors and shareholders together with specialist sole traders in a tax efficient manner. He works closely with the tax planning department of the firm to ensure that client’s financial objectives are being met.

Oliver also provides corporate pension and financial advice to many single member and multi member entities. This advisory service encompasses all matters from initial recommendation and set-up to the eventual extraction of funds at retirement.

Sector experience

Oliver provides a complete financial advisory service to a wide range of clients, both personal and corporate, combining his significant commercial and business advisory experience.

Professional qualifications and memberships

Oliver is a member of the Chartered Accountants Ireland (CAI), is a qualified Chartered Tax Consultant and is a Qualified Financial Adviser. He holds a Bachelor degree (BA) in Accounting and Finance from Dublin City University (DCU).

Experience

Úna has vast experience on corporate and individual tax planning solutions in respect of debt restructuring, corporate restructuring including tax due diligences, hive-outs, hive-downs, rights issues, share buybacks, tax efficient pre-sale and post-sale restructuring.

She has extensive experience on estates and trusts for high net worth individuals including anti-avoidance provisions, estate planning and cross border estate tax issues and offshore trusts.

Úna regularly contributes to the Irish Tax Institute, Chartered Accountants’ House and STEP educational programmes and currently lectures Revenue Law on the LLB law programme with Griffith College

Professional qualifications and memberships

A degree in law (BCL) from University College Dublin (UCD), an LLM in Electronic Commerce Law from University College Cork (UCC) and is an Associate of the Irish Taxation Institute (AITI), an Associate of the Chartered Secretaries & Administrators (ACIS) and is a qualified Trust and Estate Practitioner (TEP).

Our dedicated team

Liam Naughton

Associate Director – Private Client

D +353 (0)1 680 5654
M +353 (0)87 615 8270
E liam.naughton@ie.gt.com

Experience

Liam joined Grant Thornton in 2016. Prior to this he gained Big Four experience, focusing on personal wealth management for clients.

Liam specialises in financial planning and wealth management for individuals, and is responsible for a portfolio of clients, including high net worth individuals, company executives, and SME business owners.

Liam also has experience in overseeing the management and performance of large investment portfolios for high net worth clients and non-governmental organisations, regularly liaising with and reviewing the performance of fund and investment managers, to ensure managers act within each client's specified mandate.

Professional qualifications and membership

Liam has been working in wealth management since 2009 and is a Certified Financial Planner (CFP®), Retirement Planning Adviser and Qualified Financial Adviser through the LIA. He also holds an MSc. in Financial Services from UCD, and a Bachelor's Degree in Business Studies (Accounting and Finance) from the University of Limerick.

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