

## Contacts

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This is the fourth issue of McCann FitzGerald's e-zine (electronic format only magazine) dedicated to news, transactions and information relevant to the Banking, Capital Markets and Financial Services sector in Ireland. Our aim is to inform readers of headline matters, report noteworthy deal completions and direct them to relevant useful external publications or source materials. Accordingly, the document is in short form and designed for quick and easy access and reading. However, if you are interested in further information on any matter mentioned we should, in most cases, and subject to client confidentiality, be able to assist. A PDF version is also attached.

We would welcome any comments you may have on the design and/or content of this e-zine. Contact [John Cronin](#), Tel. no. +353 1 607 1284, or [Ambrose Loughlin](#), Tel. no. +353 1 607 1253.

## IRELAND'S FIRST EXCHANGEABLE BOND

In late December 2003, UniCredito Italiano Bank (Ireland) p.l.c. issued €1,262,800,000 notes exchangeable into ordinary shares of Assicurazioni Generali S.p.A. This landmark deal is the first issue of exchangeable notes by an Irish bank or any other Irish issuer. The notes are denominated in units of €50,000 and may be exchanged at a ratio of 1780.6288 shares per note if the underlying share price reaches €28.08 between years 3 - 5. This represents a 30% premium over the price of the underlying shares at the time of issue. The notes mature in December 2008, have been issued and will be redeemed at par and have a coupon of 2.5%. The notes are fully guaranteed by UniCredito Italiano S.p.A., are rated Aa2 by Moodys, AA- by S&P and AA- by Fitch, are listed on the Luxembourg Stock Exchange and were placed with institutional investors outside the US in accordance with Regulation S. The issue was 2.4 times over-subscribed. Mediobanca – Banca di Credito Finanziario S.p.A., Merrill Lynch International and UniCredit Banca Mobiliare S.p.A. acted as joint book runners and also acted as joint lead managers along with SG Corporate and Investment Banking. McCann FitzGerald (Julian Conlon and Hugh Beattie) were Irish counsel to this transaction. **For further information contact:** [Julian Conlon](#) or [Hugh Beattie](#)

## INTERNATIONAL AWARDS FOR NRA PPP DEAL

The €300million+ flagship National Roads Authority N4/N6 motorway project which achieved financial close in 2003 has been awarded the 'Infrastructure Deal of the Year' for Europe, Middle East and Africa by Project Finance International and the 'Transport Deal of the Year' for 2003 by Euromoney/Project Finance magazine. The transaction effected a transfer of significant risks associated with the construction and operation of a road from the State sector to the private sector. McCann FitzGerald had the role of lead transaction lawyer to the NRA. **For further information contact:** [Eamonn O'Hanrahan](#) or [Colm Fanning](#)

## BOND ISSUE FOR INM

International media and communications group, Independent News & Media PLC (INM), completed a €125,000,000 bond issue in December 2003. The bonds took the form of a subordinated note (due 2008), were issued by an indirect wholly owned subsidiary of INM, Independent News & Media Finance (Ireland) plc (the Issuer), and are guaranteed on a subordinated basis by INM. Investor response was very strong to the deal. The notes are listed on the Irish Stock Exchange and were sold to European institutional investors. Davy Stockbrokers acted as Lead Manager with NCB Stockbrokers as Senior-Co-Manager, and BNP Paribas Trust Corporation UK Limited as trustee. McCann FitzGerald acted as legal advisers to INM and the Issuer through its Dublin and London offices. **For further information contact:** [John Cronin](#)

## Relevant Links

- [MF Banking & Finance Group](#)
- [MF Funds Section](#)

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## BARCLAYS SECURITISES LIFE ASSURANCE BUSINESS

Barclays Capital has completed a groundbreaking reinsurance-based securitisation of the emerging surplus of the Barclays group life insurance business. The transaction is the first in which a European bank has used the capital markets to refinance an investment in a life subsidiary and is only the second deal in which investors have purchased securities backed by a life insurer's emerging surplus. The transaction involved the issue by an Irish SPV, Gracechurch Life Finance plc, of Stg£400 million of AAA rated notes backed by a limited recourse loan to an Irish reinsurance company which reinsured the closed books of business of Barclays Life Assurance Company Limited. The transaction enables Barclays to fund its investment in its life assurance subsidiary as well as reducing the amount of regulatory capital that it has to maintain at the bank level in relation to this investment. McCann FitzGerald (Roy Parker and Fergus Gillen) advised Barclays Capital on Irish legal aspects of the transaction. **For further information contact:** [Roy Parker](#) or [Fergus Gillen](#)

## IRISH COMMERCIAL COURT OPENS FOR BUSINESS

A new regime for resolving commercial disputes in Ireland began with the opening of the Commercial Court on 12 January 2004. The Court has jurisdiction to hear claims valued at €1m or more arising out of trade and commerce transactions, including disputes in respect of the interpretation of business documents or contracts, banking and financial services and insurance and reinsurance. The Court also may hear smaller value cases if they are clearly of a commercial nature. The Court's judges are highly experienced commercial judges who are empowered to manage the progress of a case and to penalise parties that cause culpable delay. The new forum should lead to cases proceeding more expeditiously and at less cost than at present. **For further information contact:** [Julie Quin](#) [Banking & Financial Services] or [Roddy Bourke](#) [Litigation]

## EU PROSPECTUS DIRECTIVE

The Directive is concerned with setting uniform standards throughout the EU for the content, approval and publication of prospectuses, and will repeal the existing directives on prospectuses and listing particulars. The Directive does, however, promise an effective "single passport" regime: thus, a prospectus approved by the competent authority in one member state will be valid for a public offer or admission to trading of securities in any other member state, subject only to a simple notification procedure. By removing any requirement for local regulator approval, and by denying 'host' member states the ability to prescribe additional content requirements, the impediments to the emergence of a European securities market should be removed. Irish issuers may for the first time be able to access the European retail securities markets effectively. The Directive should also reverse the trend which has seen UK and other European issuers exclude their Irish shareholders from rights issues and open offers because of the cost of compliance with the additional legal and administrative requirements involved in an extension of a public offer to Ireland. The text of the Directive was formally adopted in July 2003, was published in the EU Official Journal on 10 December 2003 and member states are required to have implemented the Directive by mid-2005. **For further information contact:** [Roy Parker](#) or [David Byers](#)

## IRELAND IMPLEMENTS EU DIRECTIVE ON FINANCIAL COLLATERAL ARRANGEMENTS

Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements has been implemented in Ireland by the European Communities (Financial Collateral Arrangements) Regulations 2004 (the **Regulations**). The purpose of the Directive is to strengthen, throughout the EU, the legal regime for taking collateral in the form of cash balances on an account and certain financial instruments (mainly securities) by way of security (for example, by way of mortgage or charge) and title transfer (for example, by way of repo or an ISDA English-law Credit Support Annex). It aims to make it easier to create, perfect and enforce these arrangements, protects them from certain insolvency laws that might otherwise affect their enforceability and clarifies certain related conflicts of law issues.

As Ireland implemented the Directive by way of statutory instrument, the regime provided for in the Regulations could not go beyond that provided for in the Directive. One important aspect of both the Directive and the Regulations is that they only apply to financial collateral arrangements at least one party to which is, effectively, a central bank, other public sector body or regulated institution. In implementing the Directive the UK has gone further than this, providing that the UK Regulations apply to relevant arrangements

between any two non-natural persons.

The Regulations comprise an important step towards the protection of collateral arrangements. However, many collateral arrangements commonly transacted in Ireland do not fall within their ambit. For information on the ambit of the Regulations and their potential impact on existing or proposed collateral arrangements. **For further information contact: [Judith Lawless](#)**

## **FINANCE BILL, 2004**

The Finance Bill, 2004, published on 4 February 2004, introduced a number of provisions not previously announced, including:

### ***Increased Revenue powers***

The power of the Revenue to apply to the High Court for an order accessing records and information of a financial institution in respect of taxpayers is extended to records and information held by an offshore financial entity under the control of a domestic financial institution (*Section 84*).

### ***Capital allowances***

Leasing of short life assets - After 2005, the writing-down period for the leasing by IFSC companies of short life plant and machinery will increase to 8 years (currently fully allowable in year 1). In recognition of shorter life assets where the useful life of the asset does not exceed 8 years, lessors engaged in the finance leasing of such assets may elect to be taxed on income earned in respect of such assets computed under normal accounting practice. Where this treatment is applied, capital allowances will not be available on the assets. (*Section 35*);

Hotels/Holiday Camps, Holiday Cottages and Third Level Buildings - In cases where all the expenditure is not incurred before the 31 July 2006 termination deadline, capital allowances will be available on the portion of work actually carried out by that date (*Sections 25 and 27*). **For further information contact: [Michael Ryan \[Tax\]](#) or [Julie Quin \[Banking & Financial Services\]](#)**

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