

Congress Briefing: The Threat of Cuckoo Funds

The preferential tax regime for Real Estate Investment Trusts (REITs) was introduced in 2013, with Finance Minister Michael Noonan arguing it would encourage “more sustainable activity” in commercial and residential property.



The terms of this regime were set out by the Revenue Commissioners: “A company which is either a REIT or a member of a group REIT is **not chargeable to corporation tax** (CT) on income from its property rental business. Equally, it is **not chargeable to capital gains tax** (CGT) accruing on the disposal of assets of its property rental business.”¹

In addition, non-residents could dispose of shares in an Irish REIT without incurring Irish capital gains tax.

In effect, REITs are liable for tax only when dividends from rental profits are distributed to shareholders (just €12.8m was collected in tax from REITs in 2018).

Budget 2019 saw some limited adjustments to this regime, but the substantial benefits were unchanged.

In March 2019, the **United Nations Special Rapporteur** on Housing, Ms Leilani Farha, formally contacted the Irish government to voice strong, official criticism of housing policy, in particular incentivising large amounts of global capital to invest in housing as “security for financial instruments.”

The Rapporteur observed that this “**financialisation of housing**” made homes unaffordable and “disconnected housing from its core social purpose.”²

While the government defended the policies, Fianna Fail’s Darragh O’Brien attacked the “negative impact of cuckoo funds” as they added nothing to supply.

The UN Special Rapporteur’s critique was to prove prescient.

Over first nine months of 2019, Cuckoo Funds spent some **€1.45 billion** on apartments and homes in Ireland, well in excess of their 2018 spend.³

This included the €53 million ‘forward sale’ of an estate in Maynooth - comprising 150 apartments and houses - to the Urbeo fund. Three months earlier the same company purchased 282 units at Citywest, for €94 million.⁴

In the same year Ires Reit acquired some 815 homes concentrated primarily in developments in Dublin, for €285m.

Cushman & Wakefield noted that these purchases happened as supply remained “critically low” and this placed “**continued upward pressure on rents.**”

Professor Orla Hegarty has warned that if funds acquired sufficient units in any given area they could then “set the market rate” and leave homes vacant to ensure rents stayed high.

Figures compiled by the Sunday Business Post in 2020 showed that hundreds of higher priced apartments in Dublin were **lying vacant.**⁵

Remarkably, the Department of Finance reached similar conclusions and, in a 2019 report, warned that the funds could “develop monopolistic or oligopolistic pricing power”⁶

The head of one major US-based Cuckoo (Kennedy Wilson) revealed in 2019 that its Dublin apartments (€2,049 pm) were far more profitable than its rentals in Los Angeles (€1,731 pm). The company planned to double its holdings in Dublin.⁷

And so the spending spree continued.

Local authorities are a key driver of demand.

1 <https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-25a/25a-00-01.pdf>

2 https://www.ictu.ie/download/pdf/un_on_housing_crisis_march_2019.pdf

3 <https://www.independent.ie/business/personal-finance/cuckoo-funds-spend-145bn-in-nine-months-to-cash-in-on-rental-shortage-38737195.html>

4 <https://www.irishtimes.com/business/construction/cairn-homes-sells-150-homes-in-maynooth-for-53-5m-1.4097898>

5 <https://www.98fm.com/news/hundreds-of-high-rent-luxury-dublin-apartments-lying-empty-971988>

6 <https://www.independent.ie/business/commercial-property/government-warned-over-cuckoo-funds-power-in-2019-40425460.html>

7 <https://www.dublinlive.ie/news/business/cuckoo-fund-says-makes-more-16239219>

Shorn of their own housing stock by years of low output and official reliance on the private market, local authorities now offer what are described as ‘exceptional terms’ to lease from the funds: 25 year deals, rent guarantees, property management and returning the units ‘as good as new’ at the end of the term.

After 25 years of significant expenditure, the taxpayer is left with no asset. Financing a direct build would be a far cheaper option.

In January 2020, another new development was effectively taken off the market as 229 homes in Lucan were sold for €78.75m to Carysfort Capital.

Over the following 12 months, Cuckoo Fund acquisitions **totalled €1.75bn** - a remarkable spend in the depths of a global pandemic, bringing combined holdings close to 18,000 homes to date.

It is estimated the the funds are currently spending some €53m per week acquiring property, with significant new deals completed in the early months of 2021.

Such is the level of fund activity, that housing expert Lorcan Sirr has observed that supply for first time buyers would be **boosted by as much as 50%** simply by placing restrictions on their capacity to buy.⁸

Analyst Richard Curran points out: “Once these properties are bought up for renting, they are gone to the owner-occupier market. They are more likely to be bundled up in portfolios and held or flipped on after a few years to other similar global investment funds.”⁹

It was the acquisition in May of almost an entire housing estate in Maynooth by Round Hill Capital that sparked the controversy around Cuckoo Funds - and prompted belated recognition of the **housing emergency** in Government circles.

Yet the previous month, the same fund announced a similar deal for 112 homes in Dublin 15.

Both acquisitions marked a significant step change in the growth of the **Single Family Rental** (SFR) market in Ireland, already a key sector in the United States and a favourite of major institutional investors.

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The growth in the US is driven primarily by a steady decline in the numbers of ‘average earners’ who can now afford to purchase their own home.¹⁰ The same worrying pattern is being repeated here.

Opposition parties and housing experts differentiate between REITs and longer- term investment funds - such as pension funds - which often have a more positive, stabilising influence in the housing markets and rental sectors of other EU states.¹¹

The major Cuckoo Funds operating in Ireland are: Ires Reit, Kennedy Wilson, Urbeo, LRC Group and the Comer Group.

Tackling Cuckoo Funds

Devising an effective solution to the problem of REITs is likely to comprise a range of interlocking political, legal and fiscal measures that would have the added benefit of bringing greater stability and certainty to the overall housing sector. These include:

Creating a new **Right to Housing** is more likely to deter shorter-term, speculative investors, as would ending **No Fault Evictions** and establishing a national system of **Rent Control**, drawing on the models in other EU states.

Restricting the number of new builds that could be acquired by any one fund would, as noted above, limit their influence on the market and also boost housing supply.

Key taxation measures would include making the **funds liable for Capital Gains**, which again deters shorter term speculative acquisition and disposal of units, ensuring tax was **payable on the funds’ rent roll** and increasing **stamp duty**.

¹⁰ <https://www.architecturaldigest.com/story/investors-are-betting-big-on-rental-homes>

¹¹ <https://www.ft.com/content/efe1f74c-3c1d-11e9-9988-28303f70fcff>

⁸ <https://www.independent.ie/business/personal-finance/property-mortgages/cuckoo-funds-now-own-15500-homes-in-ireland-after-latest-175bn-splurge-40016057>

⁹ <https://www.independent.ie/business/irish/they-have-had-years-to-kick-the-cuckoosfrom-their-nest-40397718.html>