

23 Performance of the Ireland Apple escrow fund

- 23.1** The Ireland Apple escrow fund is a multi-billion-euro fund held under the terms of a formal agreement between the Minister for Finance (the Minister) and Apple Sales International Limited and Apple Operations International Limited (jointly referred to hereafter as Apple), pending the final outcome of legal challenges to the findings of a State aid investigation undertaken by the European Commission (the Commission).
- 23.2** The investment and management of the fund is jointly overseen by the Minister and Apple. The Minister delegated his functions in that regard to the National Treasury Management Agency (NTMA).

Origin of the escrow fund

- 23.3** In June 2014, the Commission opened a formal investigation procedure into the tax opinions issued to Apple by the Revenue Commissioners in 1991 and 2007. The investigation was focused on establishing whether these opinions conferred any advantage on Apple relative to its competitors, such that they constituted State aid.
- 23.4** In August 2016, the Commission issued its decision concluding that Ireland had given illegal State aid to Apple.¹ The Commission ordered Ireland to recover, from Apple, the alleged State aid plus interest, related to a ten-year period from 2003 to 2014.²
- 23.5** The Revenue Commissioners computed that the alleged State aid to be collected by reference to the Commission's decision was €13.1 billion plus interest of €1.2 billion.³ Both the Irish Government and Apple separately appealed the Commission's decision, and agreed to the recovered amounts being held in an escrow fund pending completion of the legal process. Apple transferred €14.3 billion into the escrow account in 2018.
- 23.6** In July 2020, the General Court of the European Union annulled the Commission's decision that Ireland had granted unlawful State aid to Apple. The Commission lodged an appeal against the General Court judgement.
- 23.7** The Court of Justice of the European Union published its final judgement on the case in September 2024. In summary, the Court of Justice set aside the judgement of the General Court and confirmed the Commission's 2016 decision that Ireland had granted Apple unlawful aid, which it is required to recover.⁴
- 23.8** The Court also ordered Ireland and Apple to bear their own costs in the legal proceedings, and to pay the costs incurred by the European Commission.
- 23.9** Placement of the recovered amounts in an escrow fund allowed the escrow parties (the Minister and Apple) to determine jointly how these amounts are invested pending the final judgement by the Court of Justice, and the ultimate owner of the fund being determined. The process of disbursing the funds in the escrow account will be reviewed as part of the audit of the 2024 financial statements of the account.

¹ [Commission Decision on State Aid SA.38373 of 30 August 2016.](#)

² [Article 9, Chapter V of the Commission Regulation \(EC\) No 794/2004 of 21 April 2004.](#) The Apple case is the largest State aid recovery ever ordered.

³ Amounts in this report have been rounded.

⁴ [Commission v Ireland and Apple Judgement 10 September 2024.](#)

Oversight and management of the fund

- 23.10** The arrangements for oversight, management and monitoring of the fund are summarised in Annex 23A.
- 23.11** The investment principles and parameters for the escrow fund are set out in the investment policy. The objective of the investment policy is to preserve the capital value of the fund to the greatest extent possible in light of the prevailing market conditions. The agreed risk appetite in respect of the escrow fund is 'low', with investments permitted only in securities that have a low degree of inherent risk, such as highly-rated fixed-income securities of short to medium-term duration. The investment committee periodically reviews the ongoing appropriateness of the investment policy.¹ The NTMA has stated that no changes have been made to the investment policy since the fund began investing in 2018.
- 23.12** The escrow fund is exposed to a variety of market, liquidity and credit risks. The risk management programme for the fund seeks to minimise the potential adverse effects of the risks on its financial performance.

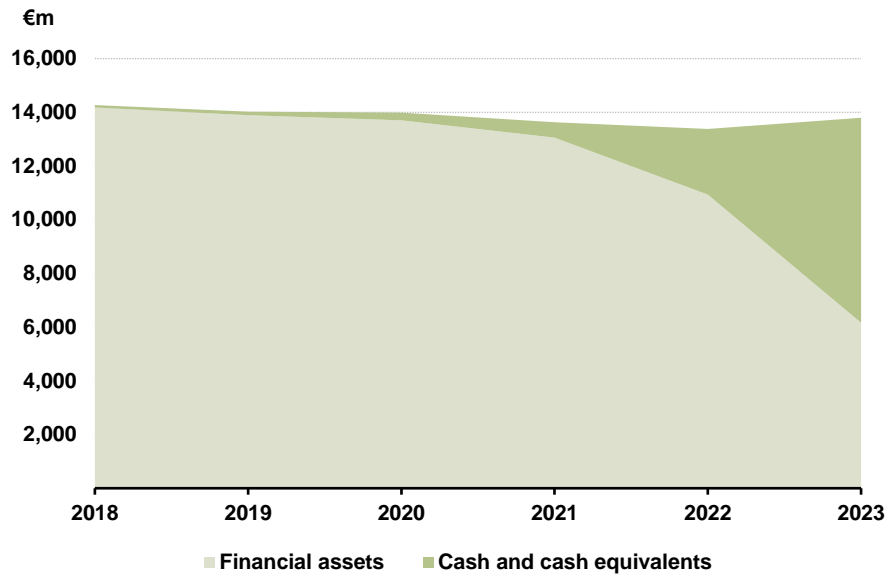
Performance of the escrow fund

- 23.13** The financial statements of the escrow fund are prepared in accordance with International Financial Reporting Standards (IFRS), as directed by the Minister. All financial assets of the escrow fund are valued in the financial statements at fair value, which is the quoted market value at the close of trading on the period-end date.
- 23.14** In line with the investment policy, the escrow fund is invested in highly rated euro-denominated fixed income securities, or held as cash and cash equivalents. Fixed income securities include sovereign, quasi-sovereign and corporate bonds. Cash and cash equivalents include cash and other short-term investments (with maturities of three months or less).
- 23.15** At 31 December 2023, total assets of €13,794 million were held in the escrow fund, of which around 45% was invested in financial assets and 55% held in cash and cash equivalents. This represents a significant change from the end of 2022, when 82% of the total assets were invested in financial assets and 18% in cash and cash equivalents (see Figure 23.1). The increased investment in short-term securities was in anticipation of the Court of Justice's final judgement on the case.
- 23.16** The net assets of the fund increased in 2023 by €400 million to €13,774 million — the first year a gain was recorded (see Figure 23.2).² The increase in the value of the fund over the year was due to the higher interest rate environment, with the increased income and cash flows mainly due to holding and reinvesting in assets at higher yields.
- 23.17** The escrow fund incurred operating costs of €6 million in 2023 (2022: €6 million) which primarily relate to investment managers' fees and escrow agent/custodian fees.

¹ The investment committee, which is chaired by the NTMA, comprises three NTMA representatives and three Apple representatives.

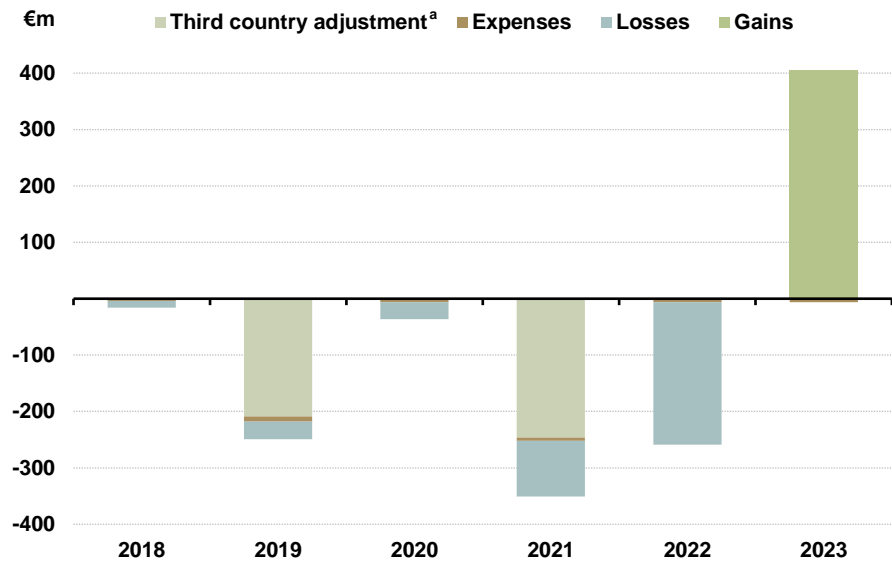
² The difference between total assets and net assets is liabilities of the fund outstanding at the year-end.

Figure 23.1 Distribution of escrow fund assets by value — 2018 to 2023



Source: Financial Statements of the Ireland Apple Escrow Fund, 2018 to 2023

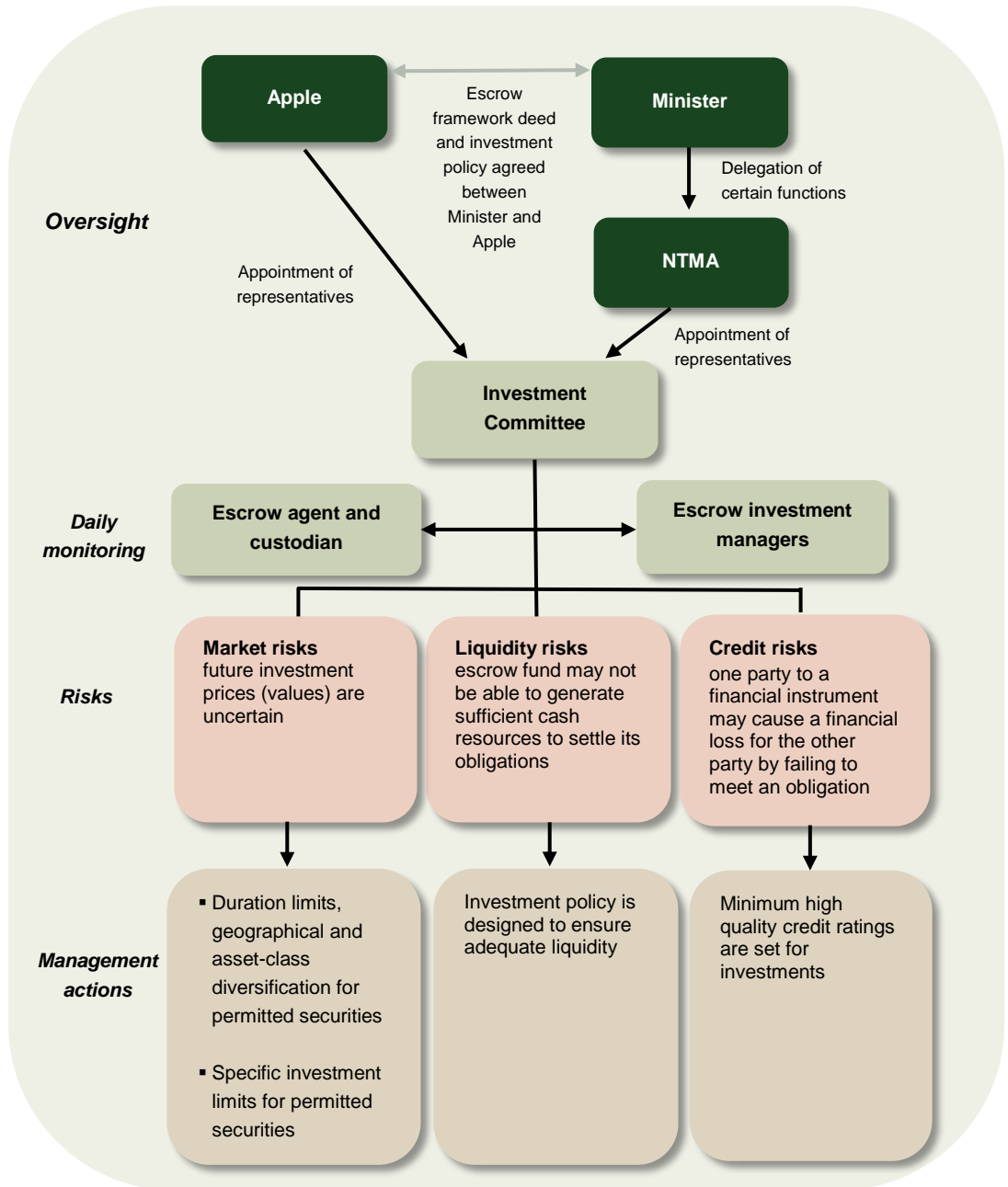
Figure 23.2 Movement in the fund's net assets — 2018 to 2023



Source: Financial Statements of the Ireland Apple Escrow Fund, 2018 to 2023

Note: a Third country adjustments relate to where Apple was required to pay taxes in another jurisdiction in respect of a portion of the profits covered by the court decision. The Minister for Finance determines the validity of any third country adjustment applications made by Apple in accordance with the escrow framework deed.

Annex 23A Oversight, management and monitoring of the escrow fund^{a,b,c}



Source: Financial Statements of the Ireland Apple Escrow Fund, 2023. Analysis by the Office of the Comptroller and Auditor General.

- Notes:
- a The role of The Bank of New York Mellon, London Branch (BNYM) as the escrow agent and custodian is to open and maintain escrow bank/securities accounts as well as to hold, apply and realise the escrow funds in accordance with the terms and conditions of the escrow agent/custodian agreement.
 - b The investment managers — Amundi Asset Management, BlackRock (Netherlands) BV and Goldman Sachs Asset Management International — are responsible for the management of investments in accordance with an investment manager mandate to preserve the fund’s capital to the greatest extent possible in light of prevailing market conditions.
 - c The escrow fund is held by BNYM, as escrow agent and custodian. The investment and management of the escrow fund is jointly overseen by the Minister for Finance and Apple through an investment committee. The Minister is the beneficial owner for the duration of the escrow fund in accordance with the agreed escrow framework deed.