



**An Roinn Dlí agus Cirt  
agus Comhionannais**  
Department of Justice  
and Equality

**ANNUAL REPORT**

**on**

**MONEY LAUNDERING**

**and**

**TERRORIST FINANCING**

**2017**

*Issued by the Department of Justice and Equality*

*(AML/CTF Policy Co-ordination Unit)*

## Contents

|       |  |    |
|-------|--|----|
| 1     | Introduction   | 1  |
| 1.1   | Money Laundering and Terrorist Financing                           | 1  |
| 2     | Legislative Regime   | 2  |
| 2.1   | Domestic Legislation   | 2  |
| 2.2   | EU Legislative Developments  | 4  |
| 2.3   | Guidelines   | 5  |
| 3     | International Environment  | 6  |
| 3.1   | Financial Action Task Force  | 6  |
| 4     | Combating Money Laundering and Terrorist Financing                 | 8  |
| 4.1   | Threats  | 8  |
| 4.1.1 | Money laundering   | 8  |
| 4.1.2 | Terrorist Financing  | 8  |
| 4.2   | Enforcement  | 9  |
| 4.2.1 | Financial Intelligence Unit  | 9  |
| 4.2.2 | Reporting suspicions   | 9  |
| 4.2.3 | An overview of reports received in 2017                            | 10 |
| 4.2.4 | How reports of suspicions are used                                 | 12 |
| 4.2.5 | Investigating suspicions   | 12 |
| 4.3   | Prosecuting and convicting offences                                | 12 |
| 4.3.1 | Charges  | 12 |
| 4.3.2 | Prosecutions   | 13 |
| 4.3.3 | Convictions  | 13 |
| 4.3.4 | Seizure of Assets  | 13 |
| 4.3.5 | Criminal Assets Bureau   | 13 |
| 4.3.6 | International Cooperation  | 14 |
| 4.3.7 | Outreach   | 14 |
| 5     | Supervision  | 16 |
| 5.1   | Supervising designated persons                                     | 16 |
| 5.2   | Reducing vulnerability to money laundering and terrorist financing | 17 |
| 5.3   | The Minister for Justice and Equality                              | 18 |
| 5.3.1 | Risk rating  | 18 |
| 5.3.2 | Supervision  | 18 |
| 5.3.3 | Authorisations for Trust or Company Service Providers              | 18 |

|       |  |    |
|-------|--|----|
| 5.3.4 | Registration of Private Members' Clubs                         | 19 |
| 5.3.5 | Inspections  | 19 |
| 5.3.6 | Compliance Rates   | 20 |
| 5.3.7 | Directions   | 21 |
| 5.3.8 | Outreach and Engagement  | 21 |
| 5.4   | Financial and Credit Institutions: The Central Bank of Ireland | 22 |
| 5.4.1 | Supervision  | 22 |
| 5.4.2 | Enforcement  | 24 |
| 5.4.3 | Administration of Financial Sanctions                          | 24 |
| 5.4.4 | Policy Engagement and Technical Assistance                     | 24 |
| 5.4.5 | Outreach and Engagement in 2017                                | 25 |
| 5.5   | Real Estate: Property Services Regulatory Authority            | 26 |
| 5.5.1 | Oversight  | 26 |
| 5.6   | Charities Regulatory Authority                                 | 27 |
| 5.6.1 | Background   | 27 |
| 5.6.2 | Impact of FATF   | 27 |
| 5.7   | Solicitors: The Law Society of Ireland                         | 28 |
| 5.7.1 | Supervision  | 28 |
| 5.7.2 | Sanctions  | 29 |
| 5.7.3 | Developments   | 30 |
| 5.7.4 | Outreach and Engagement  | 30 |
| 5.8   | Professional Accountancy Bodies                                | 31 |
| 5.8.1 | Supervision  | 31 |
| 5.8.2 | Outreach and Awareness   | 32 |

## List of Appendices

|   |    |
|---|----|
| Appendix 1: Reported suspicions: The Financial Sector and Designated Non-Financial Businesses and Professions | 33 |
|---|----|

## List of Figures and Tables

|  |    |
|--|----|
| Figure 1 Reporting of suspicions in 2017                               | 11 |
| Figure 2 Reporting of suspicions by 'other designated persons' in 2017 | 11 |
| Figure 3 Compliance Inspections  | 20 |
| Table 1: Confiscation Orders 2017                                      | 13 |
| Table 2: Proceeds of Crime Orders                                      | 14 |
| Table 3: Competent Authorities by Business Sector                      | 16 |
| Table 4: Registration of Private Members Clubs                         | 19 |
| Table 5: Compliance Rates by Sector from 2014 to 2017                  | 20 |
| Table 6: Supervisory Engagement Model                                  | 22 |

# 1 Introduction

This Report has been prepared in accordance with Article 33 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 (the 3rd Directive) on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. The purpose of this Report is to provide details on Ireland's response to Money Laundering and Terrorist Financing through:

- the legislative regime;
- the international impact;
- the regulatory framework;
- law enforcement; and
- supervisory authorities.

## 1.1 Money Laundering and Terrorist Financing

Money laundering and terrorist financing are financial crimes with economic effects on a global scale.

Money laundering is the term used to describe the means by which criminals try to disguise the original ownership and control of the proceeds of crime i.e. turning 'dirty' money or property into 'clean' funds. The processes by which money may be laundered are extensive and may involve goods and/or assets. By concealing monies gained through criminal enterprises and making these appear to have come from legitimate sources, criminals can accumulate and use the proceeds of crime for the purposes of personal gain and for the purposes of funding further criminal enterprises.

Terrorist financing is defined by what the funds are to be used for i.e. terrorist activity, rather than the source of these funds, as is the case with money laundering. Funds to support terrorist groups can have both legal and illegal sources and can involve legitimate businesses and charities in addition to funds raised through criminal means.

While these two phenomena differ in many ways, they often exploit the same vulnerabilities in financial systems that allow for an inappropriate level of anonymity and non-transparency in the execution of financial transactions.

## 2 Legislative Regime

### 2.1 Domestic Legislation

Money laundering legislation in Ireland, as elsewhere, is based on putting in place a range of 'defensive' measures intended to mitigate the risk of money laundering occurring in the first place and, in instances where money laundering does occur, to ensure that significant dissuasive sanctions are applied.

In Ireland, terrorist financing is also criminalised within the money laundering legislative framework and compliance controls apply equally to both.

The main provisions in Irish law relating to money laundering were first set out in Section 31 of the Criminal Justice Act 1994, (as amended) while the offence of financing terrorism was criminalised in the Criminal Justice (Terrorist Offences) Act 2005, which amended the 1994 Act.

In 2010, a radical overhaul of Ireland's approach was undertaken with the enactment of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, which had the effect of transposing the Third EU Money Laundering Directive (2005/60/EC) and the associated Implementing Directive (2006/70/EC) into Irish Law. This brought Ireland into line with EU requirements while at the same time giving effect to certain recommendations of the Financial Action Task Force<sup>1</sup> (FATF) - the international anti-money laundering and counter-terrorist financing body established in 1989 by the G7 countries. The Act consolidated Ireland's existing anti-money laundering and counter-terrorist financing laws.

The 2010 Act sets out a range of provisions covering, among others,

- Money Laundering offences
- Financial Services industry
- Professional Services Providers
- Customer Due Diligence
- Suspicious Transaction Reports
- Tipping off
- Internal Policies and Procedures
- Training
- Record keeping
- Monitoring
- Authorisation of Trust or Company Service Providers (TCSPs)

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<sup>1</sup> An international body which sets standards and promotes effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

To mitigate the risks posed by the laundering of illicit funds, the Act places a number of obligations on a wide variety of businesses (referred to in the legislation as ‘designated persons’) including:

- credit and financial institutions;
- accountants, auditors, tax advisors;
- independent legal professionals including solicitors, barristers and notaries;
- trust and company service providers;
- property service providers;
- persons who effectively direct a private members’ club at which gambling activities are carried on;
- anyone who trades in goods in respect of transactions involving payments to the person in cash of a total of at least €15,000 whether once-off or linked transactions.

In order to ensure that businesses comply with their anti-money laundering/counter-terrorist financing obligations, a number of bodies/organisations have been assigned the role of a competent authority and oversee the various sectors. These include State Competent Authorities such as the Minister for Justice and Equality<sup>2</sup>, the Property Services Regulatory Authority (PSRA) and the Central Bank of Ireland alongside other competent authorities (namely the Law Society and Professional Accountancy bodies) with expertise in the relevant sectors. Competent authorities employ a range of measures to mitigate risks in their sectors including desktop checks, risk assessments and inspections. In addition to complying with the requirements of the competent authorities, ‘designated persons’ are also legally obligated to report suspicious transactions to An Garda Síochána and to the Revenue Commissioners.

For those found to be involved in money laundering, the seriousness of the offence is reflected in the level of penalties which a person may face, if found guilty. On summary conviction, the guilty party could face a fine of up to €5,000 and a term of imprisonment of up to 12 months. On indictment, an offender found guilty could be jailed for up to 14 years or be fined or both.

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<sup>2</sup> Please note that the Minister carries out his functions in this regard through the Anti-Money Laundering Compliance Unit of the Department of Justice and Equality.

The Irish anti-money laundering/counter-terrorist financing framework was subsequently further strengthened by the enactment of the Criminal Justice Act, 2013. The 2013 Act amended the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 giving rise to changes in a number of areas including:

- Customer Due Diligence (CDD) and in particular
  - Occasional transactions,
  - Changes to grounds for applying CDD,
  - Required verification for reduced CDD,
  - Obligations for applying enhanced CDD in high risk circumstances,
  - Changes to CDD for Politically Exposed Persons (PEPs).
- Requirements for enhanced policies and procedures for detecting and preventing money laundering.
- Changes to allow for the retention of documentation overseas (subject to specified conditions).
- Changes to allow the issuing of directions, by the Central Bank of Ireland and the Minister for Justice and Equality, to 'designated persons' requiring them to take particular actions for the purpose of complying with Part 4 of the 2010 Act.

## 2.2 EU Legislative Developments

The EU Third Money Laundering Directive 2005/60/EC (the 3<sup>rd</sup> Directive) was adopted in October 2005. The main objective that the Directive set out to achieve was to align the EEA regulatory regime applicable to tackling money laundering and terrorist financing with the recommendations of the Financial Action Task Force (FATF). The major issues addressed by the 3<sup>rd</sup> Directive include:

- Broadening of the scope of persons subject to regulation
- Requirement to have a risk assessment
- Need to conduct Customer Due Diligence (CDD), including both Simplified Customer Due Diligence (SCDD) and Enhanced Customer Due Diligence (ECDD)
- Monitoring clients
- Third party reliance
- Enforcement powers

On 20 May 2015, the European Parliament adopted the 4<sup>th</sup> EU Money Laundering Directive<sup>3</sup> (the 4<sup>th</sup> Directive) EU 2015/849. This Directive is designed to remove any ambiguities in previous legislation and improve consistency of Anti-Money Laundering and Counter-Terrorist Financing rules across all EU Member States. The Directive takes

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<sup>3</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

account of the latest recommendations of the Financial Action Task Force from 2012. Furthermore, it outlines a number of modifications to the 3<sup>rd</sup> Directive in relation to the risk-based approach, ongoing monitoring, beneficial ownership, customer due diligence (CDD), politically exposed persons (PEPs) and third party equivalence.

In 2017, the Department of Justice and Equality published the General Scheme of the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Bill which transposes the main elements of the 4th Directive.

The Directive has as its aim:

- The provision of a more targeted and focused risk-based approach.
- The clarification of the rules around CDD.
- The extension of the scope of PEPs, to cover domestic PEPs.
- The extension of the scope of persons dealing in goods for cash payments, threshold reduced from €15,000 or more to €10,000 or more.
- The broadening of coverage in respect of the gambling service providers, albeit subject to a derogation whereby a risk assessment finds that the risks of money laundering or terrorist financing is low.
- The establishment and maintenance of central registers of beneficial ownership data on corporate and other legal entities and certain trusts.
- The clarification of enforcement powers of national Competent Authorities.
- The provision of a role for the European Supervisory Agencies (ESAs) to develop guidelines for the purpose of assisting credit and financial institutions apply the risk-based approach.
- The strengthening of cross-border co-operation between Member States' Financial Intelligence Units ("FIUs").

## 2.3 Guidelines<sup>4</sup>

During 2012, Guidelines on the prevention of the use of the financial system for the purposes of money-laundering and terrorist financing were published on the website of the Department of Finance following a consultation process with relevant stakeholders. The Guidelines are structured in 2 parts. Part 1 contains general guidance for all 'designated persons' while Part 2 contains sector specific guidance.

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<sup>4</sup> <https://www.finance.gov.ie/wp-content/uploads/2017/05/Criminaljustice2012.pdf>

## 3 International Environment

### 3.1 Financial Action Task Force

The Financial Action Task Force (FATF) is an independent intergovernmental organisation established by the G-7 in 1989 boasting a membership of some 37 countries and 9 FATF-Style Regional Bodies (FSRBs). It is a “policy making organisation” that leads the international fight against money laundering and terrorist financing. The FATF sets international standards for combating money laundering and terrorist financing. Furthermore, it promotes the effective implementation of legal, regulatory and operational measures for combatting money laundering, terrorist financing and other related threats to the integrity of the international financial system.

The FATF has developed a series of Recommendations that are recognised as the international standard for combating of money laundering and the financing of terrorism and proliferation of weapons of mass destruction. They form the basis for a co-ordinated response to threats to the integrity of the financial system and help ensure a level playing field. First issued in 1990, the FATF Recommendations were revised in 1996, 2001, 2003 and most recently in 2012 to ensure that they remain up to date and relevant, and they are intended to be of universal application.

The FATF monitors the progress of its members in implementing necessary measures, reviews money laundering and terrorist financing techniques and counter-measures, and promotes the adoption and implementation of appropriate measures globally. In collaboration with other international stakeholders, the FATF works to identify national-level vulnerabilities with the aim of protecting the international financial system from misuse.

The FATF’s decision-making body, the FATF Plenary, meets three times per year.

The FATF is currently undertaking its 4<sup>th</sup> round of country evaluations. Ireland was most recently assessed in November 2016. The outcome of this assessment - the Mutual Evaluation Report (MER) on Ireland, was published in September 2017. The Executive Summary of Ireland’s MER is below.

| Effectiveness ratings                     |   |
|---|---|
| <b>High level of effectiveness</b>        | The Immediate Outcome is achieved to a very large extent.<br>Minor improvements needed.                       |
| <b>Substantial level of effectiveness</b> | The Immediate Outcome is achieved to a large extent.<br>Moderate improvements needed.                         |
| <b>Moderate level of effectiveness</b>    | The Immediate Outcome is achieved to some extent.<br>Major improvements needed.                               |
| <b>Low level of effectiveness</b>         | The Immediate Outcome is not achieved or achieved to a negligible extent.<br>Fundamental improvements needed. |

| Technical compliance ratings |    |                                    |
|------------------------------|----|------------------------------------|
| <b>Compliant</b>             | C  | There are no shortcomings.         |
| <b>Largely compliant</b>     | LC | There are only minor shortcomings. |
| <b>Partially compliant</b>   | PC | There are moderate shortcomings.   |
| <b>Non-compliant</b>         | NC | There are major shortcomings.      |

## Effectiveness & Technical Compliance Ratings

### Effectiveness Ratings (High, Substantial, Moderate, Low)

|  |   |  |   |  |                                      |
|--|---|--|---|--|--------------------------------------|
| <b>IO.1</b> - Risk, policy and coordination  | <b>IO.2</b> - International cooperation | <b>IO.3</b> - Supervision                    | <b>IO.4</b> - Preventive measures                           | <b>IO.5</b> - Legal persons and arrangements | <b>IO.6</b> - Financial intelligence |
| <b>Substantial</b>                           | <b>Substantial</b>                      | <b>Substantial</b>                           | <b>Moderate</b>   | <b>Moderate</b>                              | <b>Substantial</b>                   |
| <b>IO.7</b> - ML investigation & prosecution | <b>IO.8</b> - Confiscation              | <b>IO.9</b> - TF investigation & prosecution | <b>IO.10</b> - TF preventive measures & financial sanctions | <b>IO.11</b> - PF financial sanctions        |                                      |
| <b>Moderate</b>                              | <b>Moderate</b>                         | <b>Moderate</b>                              | <b>Moderate</b>   | <b>Substantial</b>                           |                                      |

### Technical Compliance Ratings (C - compliant, LC - largely compliant, PC - partially compliant, NC - non compliant)

|   |  |   |  |  |   |
|---|--|---|--|--|---|
| <b>R.1</b> - assessing risk & applying risk-based approach            | <b>R.2</b> - national cooperation and coordination                 | <b>R.3</b> - money laundering offence           | <b>R.4</b> - confiscation & provisional measures       | <b>R.5</b> - terrorist financing offence   | <b>R.6</b> - targeted financial sanctions - terrorism & terrorist financing     |
| <b>LC</b>   | <b>LC</b>  | <b>C</b>  | <b>C</b>   | <b>LC</b>                                  | <b>PC</b>   |
| <b>R.7</b> - targeted financial sanctions - proliferation             | <b>R.8</b> - non-profit organisations                              | <b>R.9</b> - financial institution secrecy laws | <b>R.10</b> - Customer due diligence                   | <b>R.11</b> - Record keeping               | <b>R.12</b> - Politically exposed persons                                       |
| <b>PC</b>   | <b>PC</b>  | <b>C</b>  | <b>LC</b>  | <b>LC</b>                                  | <b>PC</b>   |
| <b>R.13</b> - Correspondent banking                                   | <b>R.14</b> - Money or value transfer services                     | <b>R.15</b> - New technologies                  | <b>R.16</b> - Wire transfers                           | <b>R.17</b> - Reliance on third parties    | <b>R.18</b> - Internal controls and foreign branches and subsidiaries           |
| <b>PC</b>   | <b>LC</b>  | <b>PC</b>                                       | <b>PC</b>  | <b>LC</b>                                  | <b>PC</b>   |
| <b>R.19</b> - Higher-risk countries                                   | <b>R.20</b> - Reporting of suspicious transactions                 | <b>R.21</b> - Tipping-off and confidentiality   | <b>R.22</b> - DNFBPs: Customer due diligence           | <b>R.23</b> - DNFBPs: Other measures       | <b>R.24</b> - Transparency & BO of legal persons                                |
| <b>NC</b>   | <b>C</b>   | <b>C</b>  | <b>PC</b>  | <b>LC</b>                                  | <b>LC</b>   |
| <b>R.25</b> - Transparency & BO of legal arrangements                 | <b>R.26</b> - Regulation and supervision of financial institutions | <b>R.27</b> - Powers of supervision             | <b>R.28</b> - Regulation and supervision of DNFBPs     | <b>R.29</b> - Financial intelligence units | <b>R.30</b> - Responsibilities of law enforcement and investigative authorities |
| <b>PC</b>   | <b>LC</b>  | <b>C</b>  | <b>LC</b>  | <b>PC</b>                                  | <b>C</b>  |
| <b>R.31</b> - Powers of law enforcement and investigative authorities | <b>R.32</b> - Cash couriers  | <b>R.33</b> - Statistics                        | <b>R.34</b> - Guidance and feedback                    | <b>R.35</b> - Sanctions                    | <b>R.36</b> - International instruments   |
| <b>LC</b>   | <b>PC</b>  | <b>PC</b>                                       | <b>LC</b>  | <b>LC</b>                                  | <b>C</b>  |
| <b>R.37</b> - Mutual legal assistance                                 | <b>R.38</b> - Mutual legal assistance: freezing and confiscation   | <b>R.39</b> - Extradition                       | <b>R.40</b> - Other forms of international cooperation |  |   |
| <b>C</b>  | <b>LC</b>  | <b>C</b>  | <b>LC</b>  |  |   |

## 4 Combating Money Laundering and Terrorist Financing

### 4.1 Threats

#### 4.1.1 Money laundering

When a criminal activity generates substantial profits, the individual or group involved must find a way to control the funds without attracting attention to the underlying activity or to the persons involved. Criminals do this by disguising the sources, changing the form, or moving the funds to a place where they are less likely to attract attention. This process is commonly referred to as 'money laundering' and it enables criminals to retain profits derived from crime and to finance further criminal enterprises. There are a wide range of 'predicate offences' commonly connected with money laundering, which are considered particularly generative of illicit proceeds, as follows:

- Drug offences;
- Financial Crime;
- Tobacco smuggling;
- Tax evasion;
- Prostitution;
- Fuel laundering;
- Theft;
- Cybercrime;
- Human Trafficking;
- Bribery and Corruption; and
- Other illicit trade such as counterfeiting and intellectual property theft.

#### 4.1.2 Terrorist Financing

Terrorist financing is defined by what funds are used for i.e. terrorist activity, rather than the attempt to conceal the illegal origin of funds as is the case with money laundering. Therefore, the sources by which terrorists generate funding are diverse and encompass both legal and illegal activities. According to FATF, these sources of terrorist financing can be divided into two general types:

- Financing from above, involving large-scale financial support aggregated centrally by States, companies, charities or permissive financial institutions.
- Financing from below, involving fund-raising on a small and often dispersed scale, for example self-financing by the terrorists themselves through employment or welfare payments.

A single terrorist organisation may use a number of different financing methods. What is noteworthy is the great adaptability and opportunism that terrorists deploy in meeting their funding requirements. The raising, moving and using of funds for terrorism can be especially challenging and almost indistinguishable from the financial activity associated with everyday life.

## **4.2 Enforcement**

### **4.2.1 Financial Intelligence Unit**

The Financial Intelligence Unit (FIU) in Ireland is a Police-based FIU and is located within the Garda National Economic Crime Bureau (GNECB), Special Crime Operations, Harcourt Square, Dublin 2. The FIU is the central reception point for the receipt, analysis and dissemination of Suspicious Transaction Reports (STRs) pursuant to Section 42 Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 and reports pursuant to Section 63 Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. Such reports relate to suspicions of money laundering and terrorist financing. The FIU is assisted by two in-house Money Laundering Investigation Units (MLIUs) who conduct money laundering investigations and assist other worldwide law enforcement agencies conducting similar investigations. There are a total of eleven Garda officers (analysts) allocated to the FIU with administrative support from six clerical officers. Other members of An Garda Síochána in specialist national units and throughout the Garda Regions also conduct money laundering/terrorist financing enquiries as part of their investigations into profit-generating crimes & domestic/international terrorism. The FIU acquired a new IT software solution called GoAML in June 2017. This is a UNODC product specifically designed for FIUs. It allows reporting entities to submit STRs and other related reports electronically and provides for reporting entities and other stakeholders to communicate securely with the FIU via a MessageBoard. GoAML will enhance the FIU's ability to conduct operational and strategic analysis.

The Special Detective Unit (SDU) investigates both domestic and international terrorism. The Counter Terrorist Financing Office (CTFO) has also been set up within SDU to specifically conduct investigations into suspected terrorist financing. The FIU works closely with the CTFO and Security & Intelligence Section.

### **4.2.2 Reporting suspicions**

In order for Ireland's anti-money laundering / counter-terrorist financing regime to be effective, 'designated persons' must disclose any knowledge or suspicions they may have regarding such activities to both An Garda Síochána and to the Revenue Commissioners. This disclosure is commonly referred to as a "Suspicious Transaction Report" (STR) and is provided for under Section 42 of the 2010 Act. Competent Authorities can also report suspicions to An Garda Síochána and to the Revenue Commissioners under Section 63 of the 2010 Act.

To be of benefit, these reports should set out:

- The basis for the knowledge, suspicion or reasonable grounds for suspicion.
- The identity, if known, of the person suspected of being engaged in a money laundering or terrorist financing offence.
- The whereabouts of the property or funds suspected to be the subject of money laundering or terrorist financing.
- Any other information that is considered may be relevant, e.g. if cash is involved then the condition of that cash.

#### **4.2.3 An overview of reports received in 2017**

In 2017, An Garda Síochána received a total of 24,398 STRs while the Revenue Commissioners received 24,232 - a difference of 166 reports. This difference is accounted for by the fact that not all reports of suspicions have been sent to both enforcement bodies (see Reporting Suspensions), despite the requirement to do so. This difference has narrowed significantly compared to 2016 when the difference was 701 reports.

The quality of the content of STRs submitted since June 2017 has improved following the acquisition of GoAML. It is now mandatory for all reporting entities to specify what the potential criminal indicator is for each STR. This assists in the prioritisation process. While the level of reporting from some sectors, especially the Designated Non-Financial Businesses & Professions (DNFBPs) is low, it appears that there is increased awareness, especially following the compilation of the National Risk Assessment (NRA) and FATF inspection.

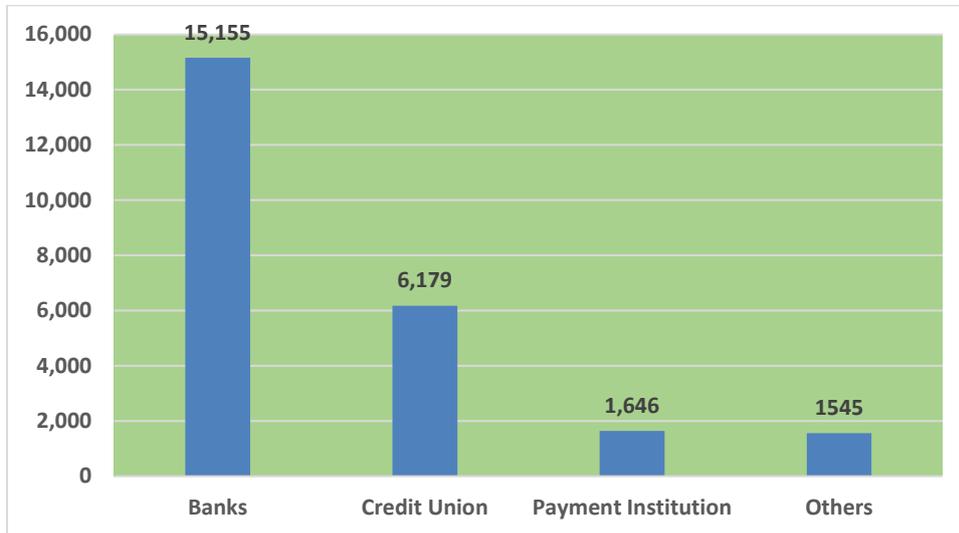
An examination of STRs received by An Garda Síochána shows that three categories of designated persons (Credit Institutions i.e. Banks, Credit Unions and Payment Institutions) accounted for 94% (22,980) of reports. Of these Credit Institutions, Banks alone accounted for 62% (15,155) with Credit Unions accounting for 25% (6,179) and Payment Institutions accounting for 7% (1,646). Reports received from other designated persons accounted for the remaining 6% (1,545)<sup>5</sup>. Prior to the acquisition of GoAML, STRs were categorised under a number of headings and feedback was provided to reporting entities on a periodic basis as to whether an STR was still under investigation, criminal proceedings commenced, criminal proceedings concluded, etc. GoAML does not provide for such categorisation. All STRs are analysed. Following preliminary analysis, a graduated response is applied to STRs where a criminal indicator(s) exists. This culminates in the initiation of a full criminal investigation in some cases.

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<sup>5</sup> Please note that percentages have been rounded to the closest whole number.

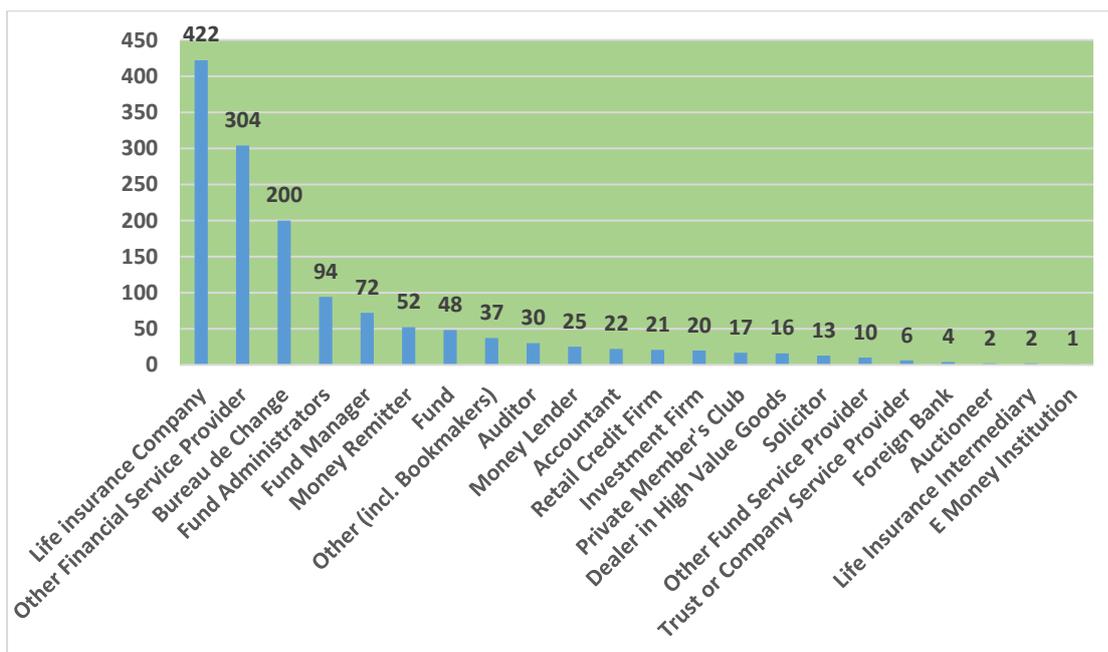
The Revenue Commissioners reported that in excess of 80% of reports it received in 2017 concerned tax related offences with information generated on foot of these reports having resulted in a cumulative tax yield of €5,533,035.

**Figure 1 Reporting of suspicions in 2017**



While reports from ‘others’ i.e. other designated persons accounted for a relatively small proportion of the reported suspicions received in 2017, this group encompasses a diverse range of businesses among which levels of reporting varied considerably. The disparity in reporting may be due to a number of factors including the size of the sectors and the extent of their regulatory exposure. (See Appendix 1 for a more detailed discussion concerning levels of reporting).

**Figure 2 Reporting of suspicions by ‘other designated persons’ in 2017**



During 2017 Competent Authorities submitted a total of 127 Section 63 Reports to An Garda Síochána and to the Revenue Commissioners, of which 61 were initiated by the Anti-Money Laundering Compliance Unit within the Department of Justice and Equality, arising from what Authorised Officers deemed to be suspicious transactions or suspicious activity across the range of sectors.

#### **4.2.4 How reports of suspicions are used**

Information contained in reports of suspicions is used for a variety of purposes including:

- The identification and investigation of crimes such as drug trafficking and customs offences,
- Tax related offences, and
- Other activities such as auditing and compliance monitoring.

#### **4.2.5 Investigating suspicions**

An Garda Síochána and the Revenue Commissioners liaise closely on issues of mutual concern, especially in relation to reports that may indicate a criminal offence. In such instances, An Garda Síochána will undertake an investigation and upon completion, the Revenue Commissioners will enquire as to the potential occurrence of tax offences.

The flow of reported suspicions from designated persons and Competent Authorities to An Garda Síochána and to the Revenue Commissioners enable investigations and prosecutions to be initiated and ultimately for criminal convictions or other appropriate sanctions to be imposed.

### **4.3 Prosecuting and convicting offences<sup>6</sup>**

Law enforcement authorities conduct a range of targeted operations against Organised Crime Groups (OCGs) to disrupt and prevent their operation.

#### **4.3.1 Charges**

In 2017, An Garda Síochána charged 42 persons with 168 money laundering offences. One person was charged in 2017 with two terrorist financing offences.

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<sup>6</sup> Suspects may not be charged or convicted/acquitted in the same year as a prosecution is directed therefore the number of prosecutions and outcomes for Money Laundering offences in 2017, provided by the Financial Investigations Unit in the Garda National Economic Crime Bureau, may differ from the number of prosecutions directed.

### 4.3.2 Prosecutions

The Office of Director of Public Prosecutions is responsible for the prosecution of all indictable criminal offences including those relating to money laundering and terrorist financing. In 2017, a prosecution for the offence of money laundering was directed on a total of 35 files<sup>7</sup> and a prosecution for the offence of terrorist financing was directed on 1 file.

### 4.3.3 Convictions

In 2017, 11 persons were convicted for 24 money laundering offences. It should be noted that some of these convictions refer to cases preferred in previous years.

### 4.3.4 Seizure of Assets

The Office of the Director of Public Prosecutions has a dedicated Assets Seizing Unit which co-ordinates and monitors all applications brought under the Criminal Justice Act, 1994 pertaining to forfeiture, confiscation and freezing. The 1994 Act is an important legislative measure by which the State can deprive criminals of the proceeds of crime, particularly funds generated as a result of drug trafficking which is one of the main predicate offences related to money laundering. The Assets Seizing Unit liaises with An Garda Síochána, State Solicitors, the Criminal Assets Bureau and the Revenue Commissioners to ensure best practice in the area of confiscation and forfeiture of criminal assets.

**Table 1: Confiscation Orders 2017**

|  | <b>Number of Cases</b> | <b>Value</b> |
|--|------------------------|--------------|
| <b>Forfeiture of Cash and Instrumentalities Orders</b> | 38                     | €906,396.28  |
| <b>Confiscation orders</b>                             | 3                      | €81,911.00   |

### 4.3.5 Criminal Assets Bureau

The Criminal Assets Bureau (CAB) is a statutory body established under the Criminal Assets Bureau Act (1996). The Bureau has responsibility for implementing the 1996 Act and for the identification, tracing and seizure of the proceeds of criminal conduct. The Bureau works under the control and direction of the Chief Bureau Officer using powers

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<sup>7</sup> This figure refers to files received by the Office of the DPP in 2017, the directions may have issued after 2017. In addition, each file may have more than one suspect.

under the Proceeds of Crime Act, Revenue and Social Welfare legislation for the purpose of targeting the proceeds of crime.

During 2017, the Criminal Assets Bureau obtained the following Orders over assets linked to individuals involved in crimes such as Drug Trafficking, Fraud, Theft and Smuggling (considered predicate offences for Money Laundering).

**Table 2 Proceeds of Crime Orders**

| <b>Proceeds of Crime Act 1996-2005</b> | <b>Number of Orders</b> | <b>Value</b>  |
|--|-------------------------|---------------|
| Section 2                              | 27                      | €7,020,539.20 |
| Section 3                              | 27                      | €2,105,487.76 |

#### **4.3.6 International Cooperation**

The Financial Intelligence Unit (FIU) within An Garda Síochána exchanges information with Foreign FIUs via FIU.net and Egmont Secure Web. In 2017 there were 134 outgoing enquires (based on STR information) made by the FIU in Ireland to foreign FIUs and 305 incoming enquiries received by the FIU in Ireland from Foreign FIUs.

#### **4.3.7 Outreach**

The FIU works very closely with the Office of the Revenue Commissioners in delivering industry AML/CFT training to raise the awareness of emerging money laundering trends and typologies, and to provide feedback on the nature and quality of STR reporting. The recent increase in the number of STRs reported to the FIU and Office of the Revenue Commissioners, in particular due to regulatory interventions and sanctioning, has focused the emphasis of industry training on improving quality of STRs reported by designated persons. The FIU delivers training at various courses/seminars attended by members of Ireland's national Police Service, An Garda Síochána especially members in specialised units whose remit it is to investigate domestic/international terrorism, terrorist financing and profit-generating crimes. FIU and MLIU members continue to actively engage with their European and worldwide counterparts in the fight against money laundering and terrorist financing.

The implementation of GoAML by the FIU has provided for secure communications between the FIU and reporting entities through the MessageBoard. The MessageBoard can be used to communicate trends, typologies, alerts, etc. The FIU delivered training in 2017, within An Garda Síochána and to reporting entities and other stakeholders.

Members within the FIU and MLIU teams attended a number of training courses in Ireland and internationally to enhance their AML/CTF knowledge.

Members of the CTFO have raised awareness amongst their colleagues investigating domestic and international terrorism of the importance of looking at the financing of such activities.

## 5 Supervision

### 5.1 Supervising designated persons

Persons attempting to launder the proceeds of crime or raise finances to fund terrorist activity seek to exploit a wide range of businesses, services and products including deposit-taking institutions, non-bank financial institutions, civil society organisations, non-financial institutions and businesses where cash placement can be a feature. Given the diversity of the businesses and sectors of the economy that may be targeted, mitigating the risks posed by money laundering and terrorist financing requires the supervision of a wide range of business sectors by a number of different Competent Authorities with expertise in these different fields.

The following sets out the relevant sectors under regulation and the Competent Authorities with responsibilities in this regard.

**Table 3 Competent Authorities by Business Sector**

| <b>Business Sector</b>  | <b>Competent Authority</b>             |
|---|--|
| <b>Any designated person who is not subject to supervision by another competent authority:</b> <ul style="list-style-type: none"> <li>- <b>Dealers in High Value Goods (HVGDs)</b></li> <li>- <b>Trust or Company Service Providers (TCSPs) (not within the remit of the Central Bank of Ireland or designated accountancy bodies)</b></li> <li>- <b>Notaries</b></li> <li>- <b>Tax Advisors</b></li> <li>- <b>External Accountants (not within the remit of designated accountancy bodies)</b></li> <li>- <b>Private Members' Clubs</b></li> </ul> | Minister for Justice and Equality      |
| <b>Credit and Financial Institutions</b>  | Central Bank of Ireland                |
| <b>Property Service Providers</b>   | Property Services Regulatory Authority |
| <b>Solicitors</b>   | Law Society of Ireland                 |
| <b>Barristers</b>   | General Council of the Bar of Ireland  |
| <b>Accountants</b><br><b>Trust or Company Service Providers</b><br><b>(who are members of a designated accountancy body)</b>  | Designated Accountancy Body            |

## 5.2 Reducing vulnerability to money laundering and terrorist financing

The regulatory framework for mitigating the risks of money laundering and terrorist financing is primarily based on ensuring that businesses implement a number of 'defensive' measures to reduce their vulnerability to these criminal activities. These include:

- Conducting Customer Due Diligence (CDD) - specific and detailed provisions relating to the obligation to verify the identity of customers;
- The identification and the verification of the identity of beneficial owners;
- The submission of reports concerning suspicions of money laundering or terrorist financing to An Garda Síochána and to the Revenue Commissioners (as set out in the previous section);
- The development and maintenance of anti-money laundering policies and procedures by designated persons;
- The assessment of risk;
- The provision of staff training.

In order to ensure compliance with these measures, Competent Authorities have the power to:

- Conduct on-site inspections;
- Access records of the entity;
- Undertake communication and information initiatives;
- Apply sanctions.

**Note:** State competent authorities also have seizure powers, if deemed necessary.

## 5.3 The Minister for Justice and Equality

The anti-money laundering and counter-terrorist financing functions of the Minister for Justice and Equality as State Competent Authority are administered by the Anti-Money Laundering Compliance Unit (AMLCU) of the Department of Justice and Equality. The AMLCU was established in 2010 to carry out the supervision of designated persons falling outside the remit of the other Competent Authorities.

### 5.3.1 Risk rating

In 2017, the AMLCU continued to utilise a risk-based approach to supervision. This means that, following inspections, entities/businesses are assigned one of four risk ratings (low, medium-low, medium-high or high) in accordance with a scoring template containing a range of questions. This rating, along with information on compliance levels within the different sectors, forms the basis for the prioritisation of inspections. In line with the risk-based approach and in accordance with expectations of the FATF, the AMLCU conducted in-depth inspections on two entities and increased the monitoring of precious stone and metal dealers.

### 5.3.2 Supervision

The following sectors fall within the remit of the AMLCU for compliance monitoring, namely:

- Trust or Company Service Providers (TCSPs),
- Persons trading in goods for cash values of €15,000 or more (High Value Goods Dealers (HVGDs)),
- Tax Advisers and External Accountants who are not already supervised by a competent authority and
- Private Members' Clubs (PMCs)<sup>8</sup> where gambling activities are carried on.
- Notaries.

### 5.3.3 Authorisations for Trust or Company Service Providers

Under the money laundering and terrorist financing legislation, entities operating as Trust or Company Service Providers (TCSPs) must make an application for authorisation to the AMLCU.

During 2017, the AMLCU received a total of 36 new applications from TCSPs, with 89% of these on the TCSP register by the end of 2017. Before a TCSP application is accepted

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<sup>8</sup> AMLCU registers Private Members' Clubs at which gambling activities are carried on, but only in respect of those gambling activities.

and the entity is placed on the register, significant checks must be undertaken. At the end of the reporting period a total of 336 TCSPs were recorded as being authorised.

In 2017, 1 renewal application for authorisation was refused. The grounds for this refusal was the failure to submit documentation required for the processing of the application and was made under Section 89(1)(b). Furthermore, a total of 6 businesses had their authorisations, to carry out TCSP activities in Ireland, revoked. All of these revocations were made at the request of the businesses themselves, as they were no longer acting as TCSPs. In addition, several TCSPs advised the AMLCU that they would not be renewing their authorisations, as they had ceased TCSP operations.

#### **5.3.4 Registration of Private Members' Clubs**

During 2017 a total of 2 Private Members' Clubs (PMCs) registered with the AMLCU for the first time. In addition, 5 were removed from the register, 4 as they had ceased operations and 1 due to a duplication of records whereby a Club was recorded twice on the Register. At the end of the reporting period some 39 PMCs were recorded as being registered with the AMLCU.

**Table 4: Registration of Private Members Clubs in 2017**

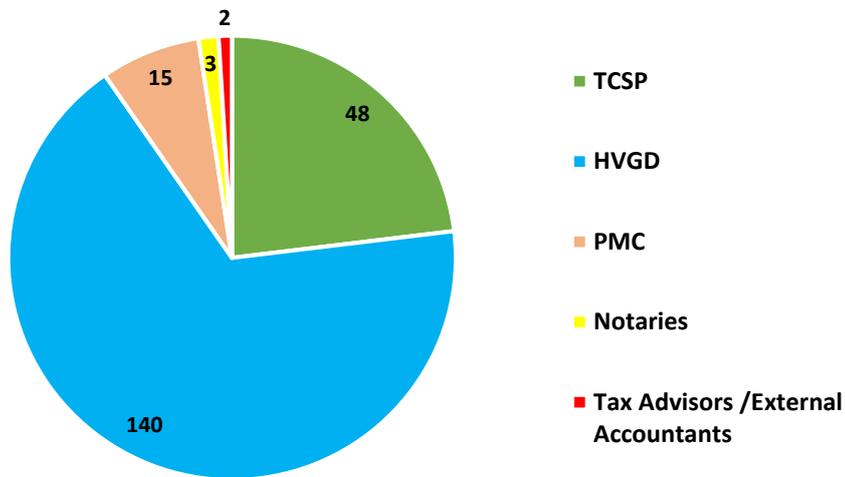
| Category                                       | Number |
|--|--------|
| First time registrations                       | 2      |
| Total number of registered PMCs at end of 2017 | 39     |

#### **5.3.5 Inspections**

In 2017, a total of 208 inspections were conducted across all sectors by authorised officers within the AMLCU. This represented some

- 140 HVGDs inspections, 26% of which were precious metal and stone dealers, representing a significant increase from 2016.
- 48 inspections in the TCSP sector,
- 15 in the PMC sector,
- 2 Tax Advisors/External Accountants and
- 3 Notaries.

**Figure 3 Compliance Inspections**



**5.3.6 Compliance Rates**

When compared to 2016, in 2017 the number of PMCs found to be fully compliant at inspection have increased by 15%, while the numbers of fully compliant entities for the TCSP and HVGD sectors decreased by 24% and 3% respectively. The increase in the compliance rate in the PMC sector is likely due to the emphasis placed on inspections in that sector in 2016, which ensured greater awareness within the sector. The decrease in compliance rates in the HVGD and TCSP sectors may be due to officers scheduling inspections using the risk based approach.

**Table 5: Compliance Rates by Sector from 2014 to 2017**

|                            | TCSPs |      |      |      | PMCs |      |      |      | HVGDs* |      |      |      |
|----------------------------|-------|------|------|------|------|------|------|------|--------|------|------|------|
|                            | 2014  | 2015 | 2016 | 2017 | 2014 | 2015 | 2016 | 2017 | 2014   | 2015 | 2016 | 2017 |
| <b>Fully Compliant</b>     | 84%   | 69%  | 81%  | 58%  | 65%  | 63%  | 72%  | 87%  | 88%    | 78%  | 73%  | 72%  |
| <b>Partially Compliant</b> | 16%   | 31%  | 18%  | 42%  | 35%  | 37%  | 26%  | 7%   | 12%    | 22%  | 26%  | 26%  |
| <b>Non-Compliant</b>       | N/A   | N/A  | 1%   | 0%   | N/A  | N/A  | 2%   | 7%   | N/A    | N/A  | 1%   | 2%   |

*\*Includes Tax Advisors and External Accountants and in 2016 and 2017 Notaries*

### 5.3.7 Directions

The Competent Authority issues directions<sup>9</sup> after repeated inspections show that a business has failed to comply with their obligations as set out in the 2010 and 2013 Acts. Failure to implement a Direction can result in prosecution. In 2017, the AMLCU issued 1 direction to a High Value Goods Dealer which instructed that certain sales transactions were submitted. The competent authority is continuing engagement with this entity to bring about compliance.

### 5.3.8 Outreach and Engagement

The competent authority's focus is on ensuring that its supervisory efforts have a positive effect on compliance and it consistently promotes an awareness of AML/CFT obligations and ML/TF risks among sectors under its remit.

The Anti-Money Laundering/ Counter-Terrorist Financing Compliance and Policy Units continued to raise awareness of ML/TF risks and ways that designated persons should mitigate such risks. During 2017, the awareness raising campaign focused on helping designated persons understand their key obligations under the legislation.

The Anti-Money Laundering Compliance Unit website is the primary source of information and advice for designated persons and the Competent Authority ensures it is updated regularly. Further to the website, guidance was provided on obligations through other channels, including:

- At compliance inspections, the Authorised Officers continued to provide detailed and entity specific advice to designated persons, including how to mitigate any ML/TF risk. Authorised Officers also assisted designated persons in registering and using the GoAML suspicious transaction system.
- The circulation of information flyers to specific sectors providing clear guidance on important obligations. For example, an information flyer was sent to Trust or Company Service Providers (TCSP's) which set out the Competent Authority's expectations regarding the contents of a TCSP policy and procedures document. Focused briefing sessions were organised for the launch of the GoAML system to help bring awareness about the new system, how to use it and more generally increasing understand about the suspicious transaction reporting obligation.

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<sup>9</sup> Directions are issued under Section 67, 68 or 71 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended by Section 14 of the Criminal Justice Act 2013.

## 5.4 Financial and Credit Institutions: The Central Bank of Ireland

The Central Bank of Ireland (the “Central Bank”) is the competent authority for the supervision of credit and financial institutions for compliance with legislation pertaining to Anti-Money Laundering and Countering the Financing of Terrorism (“AML/CFT”). The Central Bank is also one of the three competent authorities<sup>10</sup> for the administration of the EU Financial Sanctions regime (“FS”) in Ireland. The Central Bank has a specialist Anti-Money Laundering Division (“AML/D”) that is dedicated to monitoring AML/CFT compliance.

### 5.4.1 Supervision

The Central Bank supervises credit and financial institutions for AML/CFT compliance on a risk-sensitive basis. This risk-based approach ensures that firms with a higher level of ML/TF risk are subject to more frequent and intensive supervision.

The Central Bank maintains a ML/TF Risk Assessment to identify and assess risk in the financial services sector in Ireland from a supervisory perspective. The Central Bank’s ML/TF Risk assessment of credit and financial institutions is separate and distinct from prudential and consumer supervisory engagements and risk ratings. The ML/TF Risk Assessment incorporates:

- the ML/TF risks associated with the sector/firm’s business model; and
- the overall quality of the AML/CFT control framework generally associated with the firms within the sector/ the firm itself.

The ML/TF Risk Assessment model assigns four ML/TF sectoral ratings - High; Medium (higher); Medium (lower); and Low risk. The overall risk rating for each sector is set out in the table below<sup>11</sup>.

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<sup>10</sup> The other competent authorities for EU Restrictive Measures are the Department of Jobs, Enterprise and Innovation and the Department of Foreign Affairs and Trade

<sup>11</sup> It is important to note that an individual firm’s ML/TF risk rating may differ from the risk rating applied to its sector, depending on the specific ML/TF risk associated with its business model and the quality of its AML/CFT control framework.

## Summary of overall ML/TF Risk Ratings per Financial Sector

|             |   |                        |  |                       |  |            |   |
|-------------|---|------------------------|--|-----------------------|--|------------|---|
| <b>High</b> | <ul style="list-style-type: none"> <li>• <b>Bureaux De Change</b></li> <li>• <b>E-Money Institutions</b></li> <li>• <b>Payment Institutions (Money Remitters)</b></li> <li>• <b>Retail Banks</b></li> </ul> | <b>Medium (Higher)</b> | <ul style="list-style-type: none"> <li>• <b>Fund Administrators/Funds</b></li> <li>• <b>Investment Firms (Other than Asset Managers)</b></li> <li>• <b>Non-Retail Banks (engaging in higher risk activities such as Corporate Banking, Corporate Finance, Private Banking, Corporate Trust, Treasury, Aircraft Finance, Maritime Finance and Depository Services)</b></li> </ul> | <b>Medium (Lower)</b> | <ul style="list-style-type: none"> <li>• <b>Credit Unions</b></li> <li>• <b>Investment Firms (Asset Managers)</b></li> <li>• <b>Life Insurance Firms</b></li> <li>• <b>Money Lenders</b></li> <li>• <b>Non-Retail Banks (engaging in Asset Finance, Bonds, Money Market Services and Covered Banks)</b></li> <li>• <b>Payment Institutions (Other than Money Remitters)</b></li> </ul> | <b>Low</b> | <ul style="list-style-type: none"> <li>• <b>Retail Intermediaries</b></li> <li>• <b>Trust or Company Service Providers (subsidiaries of credit or financial institutions only)</b></li> </ul> |
|-------------|---|------------------------|--|-----------------------|--|------------|---|

In 2017, the Central Bank conducted a total of 77 inspections and issued 309 risk evaluation questionnaires across a variety of institutions. Other supervisory measures include AML/CFT Review Meetings, Risk Evaluation Questionnaires and outreach activities (e.g. presentations and seminars). A total of 83 AML/CFT Review Meetings were conducted in 2017, compared to 28 in 2016.

The frequency and intensity of AML/CFT supervisory engagement for an individual firm is dependent on its ML/TF risk rating. The Minimum Supervisory Engagement model is set out in the table below:

**Table 6 Supervisory Engagement Model**

|  | High ML/TF Risk <sup>12</sup> | Medium High ML/TF Risk | Medium Low ML/TF Risk              | Low ML/TF Risk                     |
|--|-------------------------------|------------------------|------------------------------------|------------------------------------|
| Inspection Cycle (Years)               | 3                             | 5                      | Strategic, Spot Check & Responsive | Strategic, Spot Check & Responsive |
| AML/CFT review meetings (Years)        | Annually                      | 5                      | Strategic, Spot Check & Responsive | Strategic, Spot Check & Responsive |
| Risk Evaluation Questionnaires (Years) | Annually                      | 2                      | 3                                  | Strategic, Spot Check & Responsive |

<sup>12</sup> Certain firms with the highest level of ML/TF risk associated with the nature, scale and complexity of their business model and/or operations have been assigned an “Ultra High” ML/TF risk rating. Such firms are subject to a more intensive/frequent level of supervisory engagement.

#### **5.4.2 Enforcement**

Where serious breaches of AML/CFT obligations are identified during an inspection, the Central Bank may take enforcement action under its administrative sanctions procedure.

In 2017, the Central Bank fined four institutions in respect of breaches of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. Drimnagh Credit Union was fined €125,000, Allied Irish Bank PLC was fined €2.275 million, Bank of Ireland was fined €3.150 million and Intesa Sanpaolo Life was fined €1 million.

#### **5.4.3 Administration of Financial Sanctions**

The Central Bank publishes on its website daily updates on financial sanctions regulations at EU level and UN terrorist designations as they arise in order to assist regulated financial services providers in monitoring customer and transactions against EU and UN sanctions lists.

In 2017, the Central Bank sent quarterly financial sanction email alerts to regulated financial service providers via its automated email alert subscription system, notifying subscribers of significant changes to financial sanctions.

#### **5.4.4 Policy Engagement and Technical Assistance**

The Central Bank provides supervisory input into domestic and international AML/CFT policy developments. At domestic level, the Central Bank is a member and active participant at the national AML steering committee and the Cross Departmental International Sanctions Committee. It also provides technical assistance on the transposition of EU AML law and new domestic legislation.

At an international level, the Central Bank has actively engaged in supervisory policy discussions at the European Supervisory Authorities (ESAs) inputting into a number of work streams at European level including:

- ESA's Joint Opinion on Risk,
- ESA's draft Regulatory Technical Standards on Central Contact Points,
- ESA's Guidelines on Risk Based Approach to Supervision,
- ESA's Risk Factors Guidelines, and,
- European Banking Authority's Task Force on Virtual Currencies.

Furthermore, the Central Bank has been actively engaged with the Financial Action Task Force ("FATF") process through its attendance at FATF meetings and its contribution to the Mutual Evaluation Report on Ireland.

#### **5.4.5 Outreach and Engagement in 2017**

During 2017, the Central Bank participated in 20 speaking events to the private sector held in various locations around the country. These events included some organised by the Central Bank and others hosted by various bodies including ACAMs, Compliance Ireland and the International Compliance Association.

The purpose of these speaking events is to highlight to credit and financial institutions their AML/CFT obligations and the importance of adopting a risk-based approach when applying preventive measures. The Central Bank also uses these speaking events to highlight patterns of issues/gaps identified during the course of the inspection process and to communicate regulatory expectations around AML/CFT compliance.

The Central Bank also provides guidance and feedback on AML/CFT to industry through various publications. These publications provide credit and financial institutions with guidance as to the Central Bank's expectations in respect of AML/CFT compliance. In 2017, the Central Bank published thematic bulletins on Customer Due Diligence and Suspicious Transaction Reporting. The Central Bank also published updated guidance on its website on AML/CFT obligations and risk-related materials as well as links to the European Joint Guidelines to Prevent Terrorist Financing and Money Laundering in Electronic Fund Transfer and European Guidance on Money Laundering and Terrorist Financing Risk (the Risk Factor Guidelines).

## **5.5 Real Estate: Property Services Regulatory Authority**

The Property Services Regulatory Authority (PSRA) was established under the Property Services (Regulation) Act 2011 on April 3<sup>rd</sup> 2012. The main function of the Authority is to control and regulate property service providers (i.e. Auctioneers/Estate Agents, Letting Agents and Management Agents). This includes the licensing of all such service providers, the establishment of a complaints investigation and redress system for consumers, the setting and enforcement of standards in the provision of property services, the administration of client accounts, the establishment and maintenance of a compensation fund and the creation of three Public Registers.

In September 2016, the Minister for Justice and Equality prescribed the PSRA as the State Competent Authority for property service providers for the purposes of Part 4 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. As the prescribed Competent Authority, the PSRA is tasked with monitoring property service providers who are described as “designated persons” and taking measures that are reasonably necessary for securing compliance by property service providers with the requirements of Part 4 of the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010. In addition to providing guidance, the Authority, as part of its audit compliance remit included an audit of compliance by property service providers with money laundering legislation.

### **5.5.1 Oversight**

There are approximately 1,900 property service employers (businesses), which are subject to audit compliance under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. At 31 December 2017, approximately 1,050 AML audits were assigned and were at various stages of completion. The Authority plans to undertake compliance audits of all employers over the coming number of years.

In 2017, the PSRA issued a RFT document for the delivery of Continuous Professional Development (CPD) on its behalf to all PSRA licensees. The contract was awarded to two parties, the Institute of Professional Auctioneers & Valuers and the Society of Chartered Surveyors Ireland for delivery of CPD, on behalf of the PSRA. A compulsory stipulation of the contract is that each licensee must complete an Anti-Money Laundering module annually. This will ensure that all PSRA licensees are up to date with all updated legislation regarding Anti-money Laundering and the implications it has for their businesses. This requirement will further educate and inform all PSRA licensees of their legal obligations under the Criminal Justice (Money Laundering and Terrorism Financing) Act 2010.

## 5.6 Charities Regulatory Authority

### 5.6.1 Background

The Charities Regulator is Ireland's national statutory regulator for charitable organisations. The Charities Regulator is an independent authority and was established on 16 October 2014 under the Charities Act, 2009.

The key functions of the Regulator are to establish and maintain a public register of charitable organisations operating in Ireland and ensure their compliance with the Charities Acts.

The Regulator also engages in the provision of services to charities including the authorising of appointments of new charitable trustees, the framing of schemes of incorporation, authorisation of Cy-Près schemes and disposition of lands held upon charitable trusts.

Under Part IV of the Charities Act, 2009 the Regulator has the power to conduct statutory investigations into any organisation believed to be non-compliant with the Charities Acts.

### 5.6.2 Impact of FATF

The FATF's Recommendation 8 addresses the need to ensure that 'Not for Profit' organisations (NPO's) are not misused by terrorist organisations. It recommends that any measures taken to protect charities occur in a manner that does not disrupt or discourage legitimate charitable activities. Rather, such measures should promote accountability and engender greater confidence in donors and the general public, that charitable funds and services reach intended legitimate beneficiaries.

The Charities Regulator maintains a dedicated FATF section on its website that outlines what FATF is and how charities fall within its scope. The section also includes relevant links for charities in relation to guidance around anti-money laundering and counter terrorism financing.

In 2017, the Charities Regulator developed and published key guidance documents for charity trustees to promote compliance with the duties in the control and management of charities. These included:

- Internal Financial Controls for Charities
- Guidance on legal duties and responsibilities of charity trustees.

In 2017, the Charities Regulator attended the Charities Supervisory Authorities Group meeting in Liechtenstein, which covered a range of topics on ML/TF risks for NPOs.

## 5.7 Solicitors: The Law Society of Ireland

The Law Society of Ireland (the Law Society) is the professional body for solicitors in Ireland. In addition to the statutory functions it exercises under the Solicitors Acts, 1954 to 2015, it is also the competent authority for the monitoring of solicitors for the purposes of compliance with Ireland's anti-money laundering and counter-terrorist financing laws.

### 5.7.1 Supervision

The Law Society is the Competent Authority for the monitoring of solicitors for the purposes of compliance with the Criminal Justice (Money Laundering and Terrorist Financing) Acts 2010 and 2013.

Approximately 2,300 firms of solicitors are required to file annual accountants' reports with the Law Society. In the course of attendance at a solicitor's firm for the purpose of investigating whether there has been due compliance with the Criminal Justice (Money Laundering and Terrorist Financing) Acts 2010 and 2013, the Solicitors Accounts Regulations 2014 and the Solicitors (Money Laundering and Terrorist Financing) Regulations 2016, the Law Society's investigating accountant is required to ascertain whether the firm has established appropriate policies and procedures in order to prevent and detect activities related to money laundering and terrorist financing. The Law Society uses a risk-based system when choosing firms for inspection in addition to conducting a number of random inspections.

Firms are chosen for inspection on the basis of pre-determined risk factors which include:

- complaints by the public,
- previous investigation experience,
- the contents of the firm's annual reporting accountant's report,
- delays in complying with filing obligations in relation to accountants' reports and practising certificates,
- professional indemnity insurance issues,
- judgement debts,
- media reports, and
- notifications of concern from 3rd parties (e.g. accountants, other solicitors, employees, ex employees, An Garda Síochána)

Where a solicitor fails to implement procedures to combat money laundering or terrorist financing, a report is submitted to the Regulation of Practice Committee who will require the solicitor to provide it with a copy of their new written Anti-Money Laundering/Counter Terrorist Financing (AML/CTF) procedures and evidence that those procedures have been communicated to all staff and will be implemented in full.

Where it is suspected that a solicitor has committed a substantive offence of money laundering or terrorist financing or failed to fulfil reporting obligations, the matter is

referred to the Money Laundering Reporting Committee of the Law Society for appropriate action.

In 2017, a total of 373 firms were subject to inspection by the Law Society for anti-money laundering compliance purposes. Of these 93% had written policies and procedures in place. The remaining 7% of firms were found not to have formal written AML/CTF procedures in place. These firms, were directed to the online Guidance Notes and through individual guidance by telephone and email from the Society's AML Guidance Service. They either provided the Law Society with a copy of new AML/CTF procedures for their firm or provided satisfactory responses confirming future compliance.

During 2017 the Law Society submitted 7 reports of money laundering suspicions to An Garda Síochána and to the Revenue Commissioners<sup>13</sup> under Section 63 of the 2010 Act.

### **5.7.2 Sanctions**

The experience of the Law Society to date has been that the failure to implement AML/CTF procedures tends to reflect a failure of the solicitor to implement satisfactory procedures to ensure compliance with the provisions of the Solicitors Acts, in particular the provisions of the Solicitors Accounts Regulations. When a solicitor fails to implement satisfactory procedures to ensure compliance with the Solicitors Accounts Regulations and with the solicitors' AML/CTF obligations, the Society will re-investigate the firm until such time as it appears that satisfactory procedures have been put in place. If the solicitor does not implement satisfactory procedures, the matter may be referred to the Solicitors Disciplinary Tribunal.

If it comes to the attention of the Law Society that a solicitor has been engaged in dishonesty, and this could include activity suspected to be related to money laundering or terrorist financing, there are a number of sanctions that can be applied, including:

- An application to the President of the High Court for an Order immediately suspending that solicitor from practice.
- An application for an Order that no bank shall make any payment from any bank account held by that solicitor or under that solicitor's control.
- An application for an Order that any documents held by the solicitor be immediately delivered to the Law Society or its nominee.

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<sup>13</sup> As a Competent Authority, the Law Society provides reports of suspicions of money laundering/terrorist financing under section 63 of the 2010 Act.

### 5.7.3 Developments

Towards the end of 2017, the Law Society established a new AML Compliance Working Group in the Regulation Department comprised of regulation staff involved in solicitor AML supervision.

Also in 2017, the Law Society became a registered user of goAML, the United Nations Office on Drugs and Crime (UNODC) web based reporting system adopted by Ireland and introduced by An Garda Síochána since June 2017 for reporting suspicious transactions.

### 5.7.4 Outreach and Engagement

In addition to supervision, the Law Society also engages in a range of other anti-money laundering and terrorist financing outreach and engagement activities including:

- Awareness raising via a dedicated AML web resource hub, eZine articles, monthly Gazette and email alerts about emerging money laundering typologies/red flags and also international guidance and assessments of sector-specific risks.
- The development of AML Guidance notes available through the AML resource hub – these are comprehensive notes covering all AML/CTF obligations and ML/TF risks, which follow a question and answer format for ease of reference. They also contain a dedicated chapter providing a non-exhaustive list of indicators of potential suspicious circumstances.
- Recommending to solicitors the publication ‘A Lawyer’s Guide to Detecting and Preventing Money Laundering’, an October 2014 publication to which the Law Society made a significant contribution.
- Tailored guidance via an anti-money laundering helpline. This helpline (manned by four policy executives) receives queries from solicitors about AML on a daily basis and in response it provides real-time specific guidance. Furthermore, intelligence obtained from queries received is used to monitor and develop guidance on new and emerging risks, which are then circulated to solicitors to raise awareness and prevent money laundering on a larger scale and develop supervision processes.
- Education – trainee solicitors attending qualifying courses in the Law Society receive comprehensive AML training. AML modules also feature on the Law Society’s Diploma courses. Throughout 2017 the Law Society’s Professional Training team delivered extensive AML training across the country and online through a total of 9 seminars with 2379 attendees. Training during 2017 had a measurable impact on the awareness of solicitors of their AML obligations and ML/TF risks evidenced by increased demand for AML guidance in the days following an AML seminar.

## 5.8 Professional Accountancy Bodies

In Ireland, at the start of 2017, 9 professional accountancy bodies acted as the Competent Authority for anti-money laundering and counter-terrorist financing compliance in respect of their members and for Trust or Company Service Providers where all persons (Principals, Directors etc.) are members of an accountancy body. During 2017 the Institute of Certified Public Accountants (CPA) Ireland facilitated the admittance of members of the Institute of Incorporated Public Accountants (IIPA) into a new category of CPA membership. This collaboration with IIPA resulted in the transition of 127 practising certificate holders from IIPA to CPA. These individuals and their associated firms are now supervised for AML purposes by CPA Ireland.

Following this, the 8 accountancy bodies responsible for AML purposes are:

- Association of Chartered Certified Accountants (ACCA)
- Institute of Chartered Accountants in England and Wales (ICAEW)
- The Chartered Institute of Management Accountants (CIMA)
- Association of International Accountants (AIA)
- The Institute of Certified Public Accountants (CPA)
- Chartered Accountants Ireland (CAI)
- The Chartered Institute of Public Finance and Accountancy (CIPFA)
- Institute of Chartered Accountants of Scotland (ICAS)

### 5.8.1 Supervision

Anti-money laundering and counter-terrorist financing compliance checks performed by Accountancy Bodies are normally carried out as part of inspections examining overall adherence to required professional standards. Inspections are conducted on the basis of a combination of desk based reviews of annual reports and on-site visits. Recent years have seen an increased focus on adopting a risk-based approach to monitoring, whereby information obtained via annual returns is used to help develop a better understanding of risk in the sector. This approach allows for higher risk areas to receive greater attention. The quantity of inspections conducted by Accountancy Bodies varies according to the number of designated persons under the supervision of each Body, with some conducting desk based reviews only. In the majority of cases, it was found that designated persons had fulfilled their obligations vis-à-vis anti-money laundering and counter-terrorist financing requirements. Where breaches did occur these related to:

- A lack of sufficient training and/or expertise regarding anti-money laundering and counter-terrorist financing obligations.
- Insufficient records of client identification and/or CDD Procedures.
- Insufficient CDD processes.
- Absence of formal written policies and procedures.
- A lack of awareness of matters concerning tipping off and the period of time for which records can be retained.
- In some cases, a lack of awareness of risk/need for risk assessment.

Penalties which can be imposed by Accountancy Bodies range from firms undertaking to update their procedures, to more punitive penalties such as the payment of a regulatory penalty/compensation to the complainant, or exclusion from membership, depending on the nature and scale of non-compliance. In 2017, two accountancy bodies indicated that they imposed penalties on entities under their supervision. These included fines, reprimand and follow up review.

### **5.8.2 Outreach and Awareness**

Accountancy Bodies offer a range of services focused on training and guidance to help designated persons better meet their anti-money laundering and counter-terrorist financing obligations. While guidance varies depending on the body in question, such assistance can include provision of rulebooks containing AML guidance, classroom based training on AML issues, regulatory bulletins, technical helplines and various online resources.

Most of the accountancy bodies indicated that they participate or attend various accountancy forums, committees and working groups, which enable them to engage with other supervisors in the sector. These groups are comprised of supervisors in Ireland and the UK and many of the accountancy bodies are members of Accountancy Europe, which enables contact with supervisors in the sector across the whole of the EU. In addition, many interact with international counterparts through various other avenues. Furthermore, there is an Irish Anti-Money Laundering Accountancy Group, comprised of the designated accountancy bodies within the sector, which meets quarterly.

## **Appendix 1: Reported suspicions: The Financial Sector and Designated Non-Financial Businesses and Professions**

An examination of reported suspicions received by An Garda Síochána and the Revenue Commissioners clearly shows a significant disparity between the Financial Sector, which has a very high rate of reporting suspicions, and Designated Non-Financial Businesses and Professions (DNFBPs), which report relatively few suspicions. It is noteworthy that these are two very different sectors. The financial sector comprises institutions with employees, while for many of those in the DNFBP sector, the business is their livelihood and this can play a significant factor in the decision to submit an STR. This is a cause for concern given that large cash transactions, which pose difficulties in terms of traceability, can be commonplace in some parts of the DNFBP sector such as High Value Goods Dealers, the Property Services Sector and the Gaming Sector for example.

Difficulties faced by some sections of the DNFBP sector in reporting suspicions can include:

- A lack of anti-money laundering/counter-terrorist financing resources and expertise owing to the small scale and diversity of the majority of businesses in the DNFBP sector.
- The high turnover rate of employees in DNFBPs with anti-money laundering/counter financing compliance knowledge.
- The often-subjective nature of determining whether a transaction is in fact suspicious.
- The pressures of operating a profitable business while trying to meet compliance obligations.
- Concerns individuals may have regarding possible repercussions as a consequence of alerting the authorities to potential criminal activity.