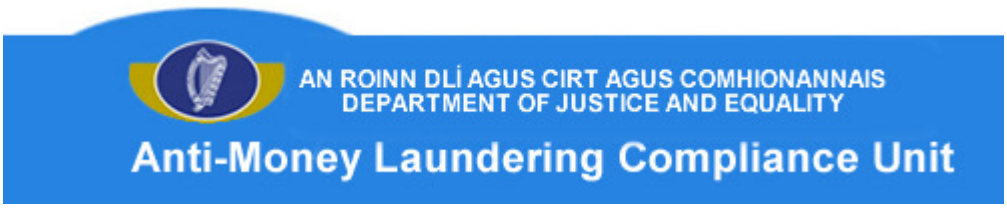
Money Laundering / Terrorist Financing

STATISTICS REPORT 2012



Contents

Section Page

1. Overview of Report

Section 2 provides the context and explains the requirement for compiling the Report.

Section 3 of the Report sets out the background, including the legislative framework for money laundering and terrorist financing controls.

Section 4 provides an overview of the regulatory framework for the monitoring of compliance with money laundering and terrorist financing controls.

Section 5 gives a background to the Suspicious Transaction Reporting (STR) framework.

Section 6 provides an overview of the role of enforcement authorities including the key enforcement roles in respect of the STR framework.

Section 7 gives the relevant statistical summary for 2012 relating to the processing and investigation of STRs .

Section 8 deals with the compliance monitoring activities of the main regulatory / competent authorities and provides statistical information about these activities.

Section 9 concludes the Report and makes an assessment of the overall statistical position.

2. Report context

Section 2 provides the context and explains the requirement for compiling the Report.

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 Third Directive) on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. The relevant requirements under the Directive are as follows.

Article 33(1): "Member States shall ensure that they are able to review the effectiveness of their systems to combat money laundering or terrorist financing by maintaining comprehensive statistics on matters relevant to the effectiveness of such systems."

Article 33(2): “Such statistics shall as a minimum cover the number of suspicious transaction reports made to the FIU, the follow-up given to these reports and indicate on an annual basis the number of cases investigated, the number of persons prosecuted, the number of persons convicted for money laundering or terrorist financing offences and how much property has been frozen, seized or confiscated”.

Article 33(3): “Member States shall ensure that a consolidated review of these statistical reports is published”.

It should also be noted that, in discussions with the Financial Action Task Force (FATF) and in other international fora, the importance of an effective statistical approach in the areas of money laundering and terrorist financing regulation and control has been highlighted.

It is accepted that strategy to counteract money-laundering and terrorist financing must be informed by sound comparable data and that provides the context for this report.

3. Introduction

Section 3 of the Report sets out the background, including the legislative framework for money laundering and terrorist financing controls.

General Background

Much of criminal conduct is financially motivated and money laundering is the process which criminals use to disguise the origin of the criminal proceeds generated by organised criminal activity. So while the problem of money laundering is not a new one, money laundering is a particularly important issue now because of the increasingly sophisticated nature of this category of crime. This phenomenon combined with the increasing globalisation of both the financial and business sectors and the internationalisation of a great deal of criminal activity makes the crime of money laundering more prevalent.

As a cross border criminal activity, fighting money-laundering accordingly has been given priority at national, EU and international level. This reflects the focus that has increasingly been brought to bear on all aspects of organised crime and corruption. For over 30 years the global drugs trade was the stimulus for a significant expansion of measures to enhance international co-operation among criminal justice and related agencies. As it was recognised that the drugs trade and organised crime are both international in character and extremely profitable this has led increasingly to the need for domestic and international law enforcement strategies to address the financial aspects of these types of crime.

Developments in Ireland

This has been the case in Ireland where considerable focus has been placed on the tracing, freezing and confiscating of the proceeds of criminal activity. It was in the context too of organised crime and its profits that anti-money laundering legislative and regulatory frameworks have been developed to both criminalise and counter money laundering. This can be seen as a development of ongoing work to co-operate internationally.

Elements of money laundering law

The general framework of the money laundering legislation in Ireland as elsewhere is to provide for robust criminal justice measures with significant sanctions against money laundering activity. Importantly this is supplemented by a range of 'defensive' or preventative measures which involve financial institutions, businesses and professionals applying a range of mandatory controls on transactions. This latter 'compliance' element is supported by a

range of strong supervisory frameworks administered by competent authorities.

In Ireland terrorist financing is also criminalised under the Criminal Justice (Terrorist Offences) Act 2005 and the money laundering legislative framework and compliance controls apply equally both to money laundering and terrorist financing. The main provisions in Irish law relating to Money Laundering were set out in Section 31 of the Criminal Justice Act 1994, (as amended). The Criminal Justice (Terrorist Offences) Act 2005 amended Sections 32 and 57 of the Criminal Justice Act 1994 to include the offence of financing terrorism.

Since the implementation of the Criminal Justice Act, 1994, Ireland has implemented a robust legal framework aimed at preventing as far as possible and detecting money laundering crime. The Government recognised that the increasing facility with which money can be transferred between countries and between financial institutions along with the generation through criminal activity of significant proceeds which require to be laundered needed to be addressed by new and strengthened legislation.

The 2010 Act

The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 was enacted and commenced on 15 July 2010. The Act transposes the Third EU Money Laundering Directive and provides for a new and strengthened regime to combat money laundering and the financing of terrorism. It represented a radical overhaul of the system and was a response to the developing trends in international crime and money laundering specifically.

The seriousness of the offence of money laundering is reflected in the level of penalties which a person may face when found guilty of the offence. 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.

In relation to preventative or defensive measures, the Act places a number of obligations on a wide variety of businesses to guard against money laundering and terrorist financing . These include requirements to identify customers/beneficial owners, maintain records, to report suspicious transactions to An Garda Síochána and the Revenue Commissioners and to have procedures in place to provide for the prevention of money laundering and terrorist financing. New and specific arrangements are comprehended by the legislation, for example, obligations in respect of higher risk business relationships with politically exposed persons.

The list of designated persons covered by the Act is extensive and includes credit and financial institutions - banks, building societies, credit unions, insurance companies and intermediaries, bureaux de change, money transfer businesses and credit unions. It also comprehends independent legal professionals, including barristers and solicitors, tax advisers and trust or

company service providers. The Act also applies to dealers in high value goods and specifically to those who may receive payments in cash of at least €15,000 whether in a single transaction or in a series of linked transactions. Those directing private members' gaming clubs where gambling activity is carried on are also covered under the Act.

The Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010 also addresses recommendations arising from the Financial Action Task Force (FATF) mutual evaluation report on Ireland's efforts to combat money laundering and terrorist financing which was published in 2006 and on the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

Further development of the legal framework

In 2012, the year under review, a Bill to amend the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 was being prepared in light of the experience of its operation. The primary purpose of the Bill is to enhance Ireland's compliance with FATF standards following its evaluation of the 2010 Act. FATF (the Financial Action Task Force) is an inter-governmental body whose purpose is the development and promotion of policies and global standards to combat terrorist financing and money laundering.

Late in 2012 a new draft 4th EU Money Laundering Directive (MLD) was being developed and it was anticipated that it would be agreed in a relatively short time frame. This Directive will replace the Third Money Laundering Directive to strengthen the EUs defences against money laundering and give effect in the EU to more recent FATF revised recommendations.

The 4th MLD will require the existing 2010 and 2013 Acts to be updated with a likely focus to be on key issues such as

- more robust risk assessments with enhanced co-operation
- stronger measures to deal with politically exposed persons
- more comprehensive measures on identifying beneficial ownership.

Guidelines

During 2012 Guidelines on the prevention of the use of the financial system for the purposes of money-laundering and terrorist financing were published following a consultation process with relevant stakeholders and these are applicable to all financial services designated persons.

4. Regulatory environment

Section 4 provides an overview of the regulatory framework for the monitoring of compliance with money laundering and terrorist financing controls.

As set out in the introduction, the anti money laundering framework can be viewed as operating on three levels

- criminal justice measures,
- defensive or compliance measures,
- international co-operation.

Section 3 sets out the international context of co-operation within which the specific measures and controls on money laundering operate. The fundamental criminal offences of money laundering (provided for under the 2010 Act) are subject to investigation and prosecution by the Garda Siochana / Director of Public Prosecutions and where related tax offences arise these are a matter for investigation and prosecution by the Revenue Commissioners. The Report deals with activity in these areas in 2012 in section 7.

The criminal justice provisions are supplemented by a comprehensive regulatory framework that provides for supervision of thousands of credit/financial, business and professional entities where the focus is on compliance with 'defensive' measures to combat money laundering and terrorist financing

Essentially these controls are focused on

- 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
- reporting of suspicious transactions
- businesses developing and maintaining anti-money laundering policies and procedures
- staff training requirements.

Competent Authorities

To achieve the goals of supervision and control, a number of competent authorities are prescribed under the legislation. Because of the diverse nature of the businesses designated under the legislation there are a number of competent authorities that have responsibility for monitoring anti-money laundering and terrorist financing compliance. They are the supervisory authorities for each of the designated persons covered by the Act.

The competent authority for credit and financial institutions is the **Central Bank of Ireland**. In the case of a designated person who is a solicitor the competent authority is the **Law Society of Ireland.** For dealers in high value goods and trust or company service providers and tax advisers who are not accountants or solicitors, the **Minister for Justice and Equality** is the competent authority.

The table below provides a summary of the remit under the legislation of competent bodies in Ireland.

The Central Bank of Ireland	for Credit and Financial Institutions
The Law Society of Ireland.	for Solicitors
The General Council of the Bar of Ireland.	for Barristers
The designated Accountancy Body.	for an Auditor, external Accountant, a tax advisor or trust or company service provider and who is a member of a designated accountancy body.
The Minister for Justice and Equality.	for any designated person who is not subject to supervision by another competent authority such as dealers in high value goods, trust or company service providers and tax advisors who are not accountants or solicitors.

The diverse range of businesses covered by the provisions reflect the fact that money laundering activities can be focused on deposit-taking institutions, non-bank financial institutions, non-financial institutions and businesses where cash placement can be a feature.

The supervisory architecture is focused on a range of powers and sanctions that the competent authorities may apply and these are focused on

- on site inspections;
- communication and information initiatives;
- specific sanctions;
- access to records of the relevant enterprise;
- powers of search, inspection, seizure.

Section 8 of this report details the activities of the competent authorities and presents a picture of how the powers outlined above have been deployed.

Notably, these powers are strongly supplemented by an education / information approach on the part of authorities.

5. Suspicious Transaction Reporting

Section 5 gives a background to the Suspicious Transaction Reporting (STR) framework.

The anti money laundering / counter terrorist financing regime generally (i.e. in Ireland and at EU level) is built on the obligation of financial and credit institutions, legal professionals etc. to disclose any money laundering suspicions.

The money laundering compliance framework in Ireland is underpinned by a system of suspicious transaction reporting. As envisaged under the Third Money Laundering Directive, suspicious transactions should be reported to the Financial Intelligence Unit which serves as a national centre for receiving and analysing suspicious transaction reports (STRs) and other information regarding potential money laundering and terrorist financing.

Under section 42 of the 2010 Act, a designated person is obliged to report to the Garda Síochána and the Revenue Commissioners any knowledge or suspicion they have that another person is engaged in money laundering or terrorist financing. The Act provides that a designated person is to indicate in a STR:-

- the information on which the designated persons knowledge, suspicion or reasonable grounds for suspicion are based
- 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 relevant information.

The key feature of the STR system therefore is the flow of such reports from designated persons to the Garda Síochána and the Revenue Commissioners, and the outcomes of follow-up actions. This is dealt with further in section 7 of the Report.

The anti-money laundering 'chain', therefore can be seen to link the filing of a suspicious transaction report through the various stages of investigation and criminal conviction.

6. Investigative / enforcement authorities

Section 6 provides an overview of the role of enforcement authorities including the key enforcement roles in respect of the STR framework.

The Garda Síochána

The Garda Síochána is the national police service of Ireland whose core functions include the detection and prevention of crime and ensuring the nation's security. The Garda Síochána has responsibility for the investigation and prosecution of Money Laundering and Terrorist Financing offences in Ireland.

The Garda Bureau of Fraud Investigation (GBFI)

The authorities responsible for the receipt and handling of STRs within the Garda Síochána are the Garda Bureau of Fraud Investigation (GBFI) / Financial Intelligence Unit. The GBFI is a specialist agency that investigates fraud-related crime involving complex issues of criminal law or procedure. The GBFI investigates serious and complex cases of commercial fraud, cheque and credit card fraud, counterfeit currency, money laundering, computer crime and breaches of the Companies Acts and the Competition Act. The Financial Intelligence Unit is responsible for receiving and investigating STRs generated by designated persons under the money laundering and terrorist financing legislation.

Revenue Commissioners

The core business of the Revenue Commission is the assessment and collection of taxes and duties and administering the customs regime . Revenue's mandate derives from obligations imposed by statute and by Government and as a result of Ireland's membership of the European Union. The Revenue works in co-operation with other State Agencies in the fight against drugs and in other cross Departmental initiatives.

The Revenue Commissioners use STRs as intelligence in identifying and following up on revenue offences such as tax evasion, drug smuggling, customs offences etc. STR information is also used in audits and compliance monitoring.

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 Counter Terrorism Financing (AML-CTF). The Central Bank is also one of three competent authorities for the administration of the EU Financial Sanctions regime (FS) in the State.

Director of Public Prosecutions (DPP)

The DPP enforces the criminal law in the courts on behalf of the People of Ireland; directs and supervises public prosecutions on indictment in the courts; and gives general direction and advice to the Garda Síochána in relation to summary cases and specific direction in such cases where requested. The Chief Prosecution Solicitor provides a solicitor service, within the Office of the Director of Public Prosecutions, to act on behalf of the Director. The Director is independent in the performance of his or her functions.

Law Society of Ireland

The Law Society is the professional body for solicitors in Ireland and exercises statutory functions under the Solicitors Acts 1954 to 2008 in relation to the education, admission, enrolment, discipline and regulation of the solicitors profession.

Anti-Money Laundering Compliance Unit

The Anti-Money Laundering Compliance Unit (AMLCU) was established in 2010 within the Department of Justice and Equality to administer the functions of a State competent authority conferred on the Minister for Justice and Equality under the money laundering legislation .

Chartered Accountants Regulatory Board (CARB)

Chartered Accountants Ireland (the Institute) is a professional accountancy body established by Royal Charter in 1888. Chartered Accountants Regulatory Board (CARB) was established to regulate members of the Institute independently, openly and in the public interest. The Institute is designated as a Competent Authority under the Criminal Justice Act 2010 and is subject to Chapter 8 of the 2010 Act “monitoring of designated persons”. CARB is responsible for carrying out these responsibilities on behalf of the Institute.

The Criminal Assets Bureau

The Criminal Assets Bureau was established in 1996. Its objectives are the identification and freezing / seizure of assets which derive or are suspected to derive directly or indirectly from criminal conduct and carrying out of investigations arising from these objectives. The focus of the Criminal Assets bureau is on pursuing proceeds of crime cases arising mainly from drug trafficking and also prostitution, theft offences and illicit trade in counterfeit goods.

7. Statistical summary - STRs

Section 7 gives the relevant statistical summary for 2012 relating to the processing and investigation of STRs .

Garda Síochána

2012	GBFI	CAB
STRs received	12390	98
follow up actions	12390	90
cases investigated	4677 - no links to criminality; 11 - links to crime other than money laundering; 7702 - under investigation, 47 of which relate to suspected money laundering	48
persons prosecuted	4	0
persons convicted	2	0
property seized	€996424 frozen €16000 seized	€1499000 seized / frozen / revenue attached

It can be noted that the provisions of section 11 of the 2010 Act (presumptions and conclusions in respect of acts of moneylaundering) has assisted in securing prosecutions for two persons charged with money laundering offences. The introduction of these provisions has been a positive measure in the investigation of money laundering offences.

With regard to the value of the section 63 reports (reporting by competent authorities such as the Anti-Money Laundering Compliance Unit), valuable intelligence has been gleaned with regard to persons linked with criminal conduct who have purchased assets. A number of these reports are still under investigation. While the legislation designating High Value Goods Dealers and Trust or Company service providers was introduced in July 2010, the section 63 reports would appear to refer to first time inspections and as such it may only be upon subsequent inspections that action can be taken by An Garda Siochana when evidence should be available that effective anti-money laundering and counter terrorist financing measures have not been put in place e.g. a car dealer is not satisfying the identification requirement for certain persons purchasing vehicles with cash.

Revenue Commissioners

The Revenue Commissioners received 12175 STRs directly from financial institutions and other designated persons in 2012. Over 80% of these reports relate to Revenue Offences. Almost 70% of the reports received were in electronic format, allowing for greater exploitation of information to assist in risk profiling.

All suspicious transaction reports received are independently assessed for risk of tax evasion and referred to relevant tax districts for review. STRs that are not being taken up for immediate investigation/enquiry are stored in a risk database known as REAP (Risk, Evaluation, Analysis, Profiling), which is a centralised application that gathers intelligence from multiple sources to further assess risk and alerts tax districts accordingly of the potential risk.

The Revenue Commissioners have also increased their participation in inter-agency domestic co-operation, in relation to suspicious transaction reporting, in particular with the Garda Síochána, Central Bank and the Anti-Money Laundering Compliance Unit of the Department of Justice and Equality.

in 2012 the amount of property seized / frozen / confiscated was €714511

Revenue Settlements

Top settlements made to the Revenue as a result of STRs	
Case 1	€3,500,000
Case 2	€2,300,000
Case 3	€2,000,000
Case 4	€2,000,000
Case 5	€2,000,000
Case 6	€1,900,000
Case 7	€1,591,400
Case 8	€1,365,000
Case 9	€1,221,667
Case 10	€1,201,714

Revenue Commissioners – Statistics overview

- 110, 107 STRS received to 31 December 2012
- 32 of these facilitating criminal prosecutions (taxes).
- 26 of these facilitating criminal investigations (Customs)
- 675 of these referred to the Criminal Assets Bureau and Special Investigations
- Over 2000 of these currently being used in Audit and Compliance enquiries (ongoing)
- 729 cases settled with €73.1 million tax uplift
- Settlements ranging from €3.5 million to €523

Director of Public Prosecutions

In 2012, the Office of the Director of Public Prosecutions recorded 80 confiscation and forfeiture orders valued at €2,764,161

These orders were divided into the following categories

- 25 forfeiture orders granted under section 61 of the Criminal Justice Act 1994 valued at €475,548
- 15 section 4 of the Criminal Justice Act 1994 confiscation orders (drug trafficking) valued at €1, 320, 692
- 40 section 39 of the Criminal Justice Act 1994 cash forfeiture orders obtained on behalf of the Director by both the Garda Siochana and Revenue to the value of €967, 921.

According to DPP computer records there were three cases in which directions to prosecute suspects for money laundering on indictment were given in 2012. These cases dealt with four individuals.

In 2012 the Director obtained freezing orders under the Criminal Justice Act 1994 over property valued at €390, 231 approximately.

8. Competent Authority activity

Section 8 deals with the compliance monitoring activities of the main Regulatory / Competent authorities and provides statistical information about these activities.

Central Bank

During 2012, the Central Bank conducted 28 AML-CTF inspections of 26 financial institutions, bringing the total number of inspections completed pursuant to the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 to 72.

Key controls failures identified in the course of this inspection activity were communicated to industry in October 2012 by means of letters addressed to the CEOs of almost 7,000 Irish credit and financial institutions. The importance attached to AML-CFT compliance by the Central Bank was emphasised by the administrative sanctioning of two regulated financial services providers who were reprimanded and fined for controls failures under Part 4 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010.

During 2012, the Central Bank played a key role in Ireland's AML-CFT-FS policy development:

- it received and responded to queries from both industry and the public on a continuous basis;

- it assisted in the review of core industry-drafted guidelines for financial services designated persons (February 2012);

- it reviewed and contributed to sectoral guidelines for the insurance sector (November 2012) and;

- it promoted industry and public consideration of AML-CFT and FS policy issues by presenting at several AML-CFT conferences hosted by a law firms and by industry bodies.

The Central Bank also played a role in international and European AML-CFT policy work:

- it provided technical assistance to the Departments of Justice and Equality and Finance in their engagement with the Financial Action Task Force ("FATF"). The focus of this work was on drafting amending legislation to better align Ireland's AML-CFT system with the international standards set by the FATF.

- it provided technical assistance to the Department of Finance in relation to meetings of the EU Commission's Committee for the Prevention of Money Laundering and Terrorist Financing ("CPMLTF");

- it proactively engaged with the EBA's Anti-Money Laundering Committee on work to harmonise regulatory approaches to AML-CFT supervision across Europe.

In 2012, the Central Bank continued to perform its statutory obligations as one of Ireland's three competent authorities for the EU's FS regime. In 2012, 88 EU Financial Sanctions regulations were published which were communicated to industry and the public via the Central Bank's website and an automated email alert subscription system. There has also been continual engagement with industry and government in relation to the upcoming implementation of SEPA and its impact on processes for screening for sanctioned transactions.

Law Society of Ireland

The Law Society's role as regards the anti-money laundering compliance duties of Irish solicitors is threefold:
- it informs and educates solicitors about their AML duties,
- it provides general and tailored guidance and
- it acts as the competent authority for solicitors in the regulation of AML compliance.

1. Information, communication and education
The Law Society was the first competent authority to publish guidance notes and these were circulated to all solicitors by email prior to the commencement of the 2010 Act. The purpose of guidance is to provide recommendations as to good practice and a non-exhaustive list of indicators of potentially suspicious circumstances to assist solicitors compliance with the obligation to make a STR.

The guidance is designed to evolve and they will be revised in 2013/2014 to take account of the recent FATF Report on Money laundering and Terrorist Financing Vulnerabilities of Legal Professionals as well as legislative changes that are planned.

The Law Society's website hosts a dedicated AML resource hub for solicitors including a dedicated AML guidance section, legislation and urgent notices about emerging money laundering typologies. In 2012 the society's bi-monthly e-Zine regularly featured AML articles.

In terms of education, trainee solicitors attending qualifying courses in the Law Society during 2012 received comprehensive AML training. AML modules also featured on the Society's Diploma courses and Law Society's Finuas/Skillnet finance courses.

The Society provides tailored confidential guidance for ad-hoc AML queries to practitioners. The Society's Policy Development Executive provides one-to-one guidance by telephone and email to solicitors. In 2012 recurring themes were how to identify various types of clients (individuals, corporate clients, other legal entities etc.), third party reliance and indicators of suspicion. The Society is in the process of expanding the team of Policy development executives who will have expertise in providing this type of confidential guidance and support on an individual basis to practitioners. The Society's investigating accountants frequently refer solicitors to the Society's Policy development executive for guidance and information about their AML duties.

The risk to solicitors of unwittingly committing the substantive offence of money laundering or failing to fulfil their AML compliance duties for lack of understanding of AML law or money laundering typologies is likely to be diminished for those accessing this guidance service. The easily accessible nature of this individual guidance and support in addition to the published guidance notes ensures that there is an emphasis on the ongoing education of practitioners and a heightened awareness of the importance of AML compliance.

2. The Law Society as competent authority for solicitors

The Law Society's Regulation Department performs the Society's statutory AML functions and duties as part of its regulatory role. As such, the Society's Investigating Accountants regularly monitor AML compliance and have the opportunity to report suspicions should the need arise.

When monitoring compliance, investigating accountants will consider whether solicitors can demonstrate the existence of proper written procedures within the firm for the prevention and detection of money laundering and terrorist financing, for example, procedures for the identification and verification of a client's identity on the basis of documents, data or information obtained from a reliable and independent source, and the ongoing monitoring of the business relationship where appropriate.

If an investigating accountant finds that a solicitor has failed to put in place and implement procedures to combat money laundering and terrorist financing the investigating accountant reports that to the Regulation of Practice Committee. This Committee will then require the solicitor to provide a copy of their new written AML procedures and evidence that those procedures have been communicated to all staff and will be implemented in full.

If an investigating accountant suspects that a solicitor has committed a substantive offence of money laundering or terrorist financing or failed to fulfil the reporting obligations they must submit a report on that matter to the Money Laundering Reporting Committee of the Law Society.

The money laundering reporting obligations of the Law Society have been delegated to this Committee which has the sole function of making money laundering reports. When a report is submitted to the MLRC, it decides in

each case whether or not a money laundering report should be made to the Garda Siochana and the Revenue Commissioners.

In 2012, 73% of the 426 firms examined by the Law Society for AML compliance had implemented AML compliance procedures pursuant to the 2010 Act. Of the 27% of firms which were found not to have implemented AML procedures pursuant to the 2010 Act, this was often accounted for by the firms not having formal written procedures in place or procedures were in place of a standard required by the 1994 Act but which had not fully taken account of the 2010 Act.

Firms who were identified as not having formal written AML procedures in place were required to submit a copy of new AML procedures for their firm to the Society and directed to the Society's guidance notes and the availability of individual guidance by telephone and email.

The Law Society considers that these figures demonstrate that the level of awareness of AML compliance continues to improve.

During 2012 the Law Society's Money Laundering Reporting Committee made 12 suspicious transaction reports to An Garda Síochána and Revenue.

Anti-Money Laundering Compliance Unit (Department of Justice and Equality).

The Anti-Money Laundering Compliance Unit (AMLCU) was established on 15 July 2010 within the Department of Justice and Equality to administer the functions of a State competent authority conferred on the Minister for Justice and Equality. Those functions are for the purposes of securing compliance by certain categories of designated persons with statutory requirements to prevent money laundering or terrorist financing in accordance with the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010.

The businesses that are affected include trust or company service providers, persons trading in goods for cash values of €15,000 or more, tax advisers and external accountants who are not already supervised by a competent authority and private members' clubs where gambling activities are carried on. This represents a significant extension of supervisory powers in respect of anti-money laundering and terrorist financing compliance measures in non-financial sectors.

The AMLCU is responsible for compliance monitoring in respect of approximately 6,000 businesses. Compliance with anti-money laundering and terrorist financing controls is administered on a risk analysis basis and inspectors carry out compliance inspections of designated persons in each relevant business sector.

The Act contains provisions requiring persons to obtain authorisation from the Minister to carry out the business of a Trust or Company Service Provider

(TCSP). In this regard – 57 TCSP's were added to the Authorised TCSP Register in 2012 bringing the total number authorised at the end of 2012 to 273.

The Act provides that any person who directs Private Members' Clubs at which gambling activities (PMGCs) are carried on must register with the Minister in respect of those activities. In this regard, 6 further persons were placed on the register bringing the number of registered PMGCs to 29 in 2012.

Approximately 368 compliance inspections of High Value Goods Dealers (HVGDs) , TCSPs and PMGCs were carried out in 2012.

Approximately 55 reports under section 63 of the 2010 Act were issued to the Garda Síochána and the Revenue Commissioners. Section 63 provides for the reporting of suspicions by a competent authority.

AMLCU inspections 2012		
Tax Advisors / External Accountants	13	
HVGD	242	
TCSP	86	
PMGC	27	
TOTAL inspections	**368**	

In relation to non-financial sectors the Anti Money Laundering Compliance Unit notes that businesses such as high value dealers are responding well to the requirements of the Act and considerable improvement in compliance is already evident for example in relation to Customer Due Diligence practice, suspicious transaction reporting and staff training to protect themselves from the threat of money laundering and terrorist financing. While such improvement is evident, a high level of monitoring is needed in this area.

The TCSP sector poses challenges in terms of supervision. this has been well documented elsewhere The AMLCU finds that there are particular challenges in determining beneficial owners in circumstances where transactions between designated persons and "customers" is atypical. This may arise in complex transactional structures such as SPV servicing

companies or intricate trust arrangements. There is a noticeable trend of higher levels of non-compliance for CDD application amongst sole traders versus other business entities.

In the high value cash sector, a level of misunderstanding of obligations has been encountered especially with repeat customers not having full CDD applied for occasional transactions. Record keeping and inconsistency with the method of payments - not showing how payment was made - cash, draft etc. – is an issue in the sector.

In private member gaming clubs , there are significant levels of CDD non-compliance and insufficient transactional and attendance records at initial inspections observed. Return visits demonstrated a significant level of failure to address highlighted shortcomings. Tracking of spend is often overlooked. The Competent Authority is likely to need to engage robustly with the sector (e.g. by way of direction under the Act, and further enforcement escalation).

Chartered Accountants Regulatory Board (CARB)

General Supervisory Role and Risk based AML approach

CARB seeks to ensure that professional services provided by members and member firms are of the highest possible standard by monitoring compliance with the Standards of Professional Conduct through a system of returns and inspections and taking regulatory action where necessary. CARB currently supervises the AML compliance of persons holding practising certificates and their firms. As at 31 December 2012 there were 2,399 practising certificate holders. Approximately 1,745 practising certificate holders have a primary address in the Republic of Ireland and hence fall within the jurisdiction of the Criminal Justice Act 2010. CARB takes a risk-based approach to its AML/CTF supervision i.e. being aware of the risks facing firms and this approach is supported by feedback from the firms

CARB has a detailed application process for practising certificates to ensure the suitability of individuals who own or control the firms CARB supervises and this includes a requirement to sign a ‘fit and proper’ declaration, incorporating confirmations of financial integrity and reliability, confirmation of no conviction or civil liabilities and affirmation of good reputation and character.

Quality Review

All practising certificate holders are subject to a system of Quality Review and CARB has integrated its Anti-Money Laundering (AML) supervision and monitoring of Practising Certificate holders and their firms into this established quality review process. Fully resourced, the Quality Assurance team comprises a Head of Quality Assurance, who is a member of the CARB Management Team; a Quality Assurance Manager who is the Secretary of the Quality Assurance Committee and a Committee administrator; the inspection

team consists of 11 people, a senior Inspector, nine inspectors and a visit administrator.

Annual Return Form – Risk Based Approach

Member firms are required to complete and submit a comprehensive Annual Return which provides information about the firm's procedures, clients, income, quality assurance programmes, etc. The Annual Return is then subject to desk top monitoring which incorporates a risk analysis. This is initially done by a bespoke computer programme and the risk reports reviewed by a senior chartered accountant. There are some 200 risk criteria set in the desk top monitoring process including type of clients, handling of clients' money, and the extent of investment business activities. The firms are also asked to confirm compliance with AML legislation.

Quality Review Monitoring Visit – Risk-Based Approach

A Pre-Visit questionnaire must be provided by the firm on the AML procedures implemented by the firm. The risks in respect of AML/CTF based on the questionnaire and any other relevant reports are assessed and it is then determined how these risks will be addressed during the visit.

The Inspector will meet with the MLRO/Nominated Officer and will carry out a review of selected files to ensure that the firm is applying its AML procedures and present findings to the firm. The Monitoring Visit report will be reviewed by a Senior Inspector before being formally issued to the member. The Report will be presented to the relevant regulatory committee in due course with a recommended course of action. The Inspector will then prepare a Money Laundering Report incorporating the findings, reasons for any non-compliance with the AML legislation and the firm's response to address the issues raised. The report is reviewed by a Senior Inspector before being issued to the firm. The report is forwarded to the Quality Assurance Committee and it will determine the necessary action it requires the firm to take to address the non-compliance issues raised in the report, and will correspond with the firm in relation to these.

Enforcement and Sanctions

Pursuant to the Disciplinary Bye-Laws and regulations, CARB may impose any of the following sanctions, depending on the severity of the breach: Expulsion / removal from membership; Suspension; Withdrawal of right to practice; Fine; Reprimand; Undertakings; Condition (including follow up review, recharged or not); Confirmation (e.g. to document risk assessment, to document AML procedures and to attend relevant training modules).

Monitoring Visits during period 1 January 2012 – 31 December 2012

During the reporting period CARB carried out 24 on-site visits; 18 visits integrated with audit and 6 visits integrated with insolvency. In 10 cases confirmations were required with regard to AML compliance. The CARB MLRO received two Suspicious Transaction Reports (STRs) through the internal reporting system during 2012. Both STRs did not fall within the jurisdiction of the Criminal Justice Act 2010, but related to the UK legislation.

Training, advice and guidance to firms

CARB provides advice and guidance to members by a variety of means

- weekly newsletters and regular bulletins:
- CARB launched a new Anti-Money Laundering webpage during 2011. This webpage provides a very useful source of information, guidance and legislation for members.
- The Institute's website has an Anti-Money Laundering section for the UK and Ireland
- The Life Long Learning Department also holds AML training courses covering Irish and/or UK legislation as relevant.
- any member looking for advice can contact the technical helpline or legal helpline.
- Members are kept up to date with developments in the area of terrorist activities via the news section within our website and the Institute's weekly E-news, following the receipt of relevant alerts from SOCA (UK).
- CARB is a member of CCAB-I, which has issued a very detailed and comprehensive guidance on Anti Money Laundering.
- CARB is also an active member of the AML Supervisors' Forum (AMLSF) within the UK and this provides invaluable engagement with other supervisory bodies to ensure consistency of approach and commonality of guidance.

CARB considers firms supervised by CARB to present a low risk of being used to facilitate money laundering or terrorist financing.

9. Conclusion

Section 9 concludes the Report and makes an assessment of the overall statistical position.

The Report provides a composite picture of AML/TF data relevant to the reporting of suspicious transactions and their investigation and an 'across the board' representation of the 'defensive' / 'preventative' activities of supervisory bodies. Overall the Report demonstrates a significant amount of investigative and supervisory work at policing level and at competent authority level respectively.

After the first full year of implementation of the 2010 Act, the year under review (2012) saw a further consolidation of the activities of the various Competent Authorities in the implementation of compliance controls across the Credit / Finance sector and the non-financial business sectors, including professions. At competent authority level, as reflected in section 8, a combination of approaches is viewed as an effective approach to supervision i.e. information resources, guidelines, inspection processes and sanctioning responsibilities are together an effective response to the threat to credit/finance and other businesses as well as professions posed by money laundering and terrorist financing. As identified by FATF, this increased focus on the designated non-financial business sector is necessary given the vulnerabilities in these areas to such threats.

It can be anticipated that as the 2012 Bill to amend the 2010 Act is enacted and implemented, it will serve to further strengthen certain provisions - for example it allows for a more focused risk based approach, and allows for enhanced customer due diligence measures where there is a higher risk. Other changes such as the lowering of threshold cash amounts on transactions in certain situations will allow for a tightening of controls in key areas. A strengthening of provisions allowing for the issuing by Competent Authorities of directions and for enhanced requirements for maintaining AMLTF policies and procedures are also anticipated to contribute to the fight against money laundering and terrorist financing.

There are significant challenges ahead in terms of the effectiveness of AMLTF processes - it is clear that greater co-operation internationally, more robust risk assessment frameworks, more transparency in relation to ownership and control of companies, trusts and other legal persons and a greater requirement to provide for and apply sanctions at various levels will all be necessary to deal comprehensively with the threat of money laundering and terrorist financing. Such developments also present opportunities for agencies in more effectively combating these threats. in particular more comprehensive risk assessments would provide more of a central focus to establish where enforcement priorities should be or to understand risks faced by competent authorities and enforcement agencies and to have the systems in place to deal with this.

Agencies directly involved in the suspicious transaction reporting framework and follow up action have not identified significant issues in the working of the system to date. There is a high level of STRs and both the Garda Síochána and the Revenue Commissioners have indicated that information is the key tool in the detection and prosecution of money laundering offences and emphasise the value of quality completed STRs.

In excess of 12,000 STRs were filed in 2012; this compares to levels as high as 37,000 (Italy 2010) and 19,000 (Belgium 2010) and a roughly similar figure for Germany in 2010 of 11,000 STRs. Comparison with somewhat similar sized jurisdictions may be more instructive – 2,300 (Denmark 2010), 2,200 (Austria 2010) and 2,200 (Portugal 2010). Notably the preponderance of STRs emanating from the credit and financial sector in Ireland is replicated across all jurisdictions.

While the level of prosecution of MLTF offences is low in Ireland it should also be noted that in the overall context of the Irish criminal justice system other serious offences related to or associated with MLTF offences have significant outcomes in terms of confiscations, seizures and conviction rates. The work of the CAB has ensured that significant financial amounts annually are recovered by the State from the proceeds of crime as well as from the recovery of tax and interest.

It might also be noted that the practice is that an individual will be charged with the predicate offence only as this is the substantive crime whereas the money laundering is regarded as the ancillary offence. This does not appear to be the case in other jurisdictions where suspects are charged with both the predicate offence and the subsequent offence of laundering the proceeds. This of course produces higher number of prosecutions/convictions for money laundering.

In the context of meeting the requirements of Article 33(1) to maintain comprehensive statistics on matters relevant to the effectiveness of the anti money laundering and terrorist financing systems, there is a recognised need to develop improved statistical data about money laundering and terrorist financing offences at national and European level to provide a better focus to assess this particular criminal threat. It is proposed that this will be a particular focus for all of the relevant agencies in the period leading up to the compilation of 2013 data to meet the requirements of Article 33. This will enhance the ability of competent bodies to keep under review relevant aspects of the anti-money laundering framework.

An improved statistical framework will also promote greater understanding and comparability of measures taken at EU and wider international level.