



AN ROINN DLÍ AGUS CIRT AGUS COMHIONANNAIS
DEPARTMENT OF JUSTICE AND EQUALITY

**ANNUAL STATISTICAL REPORT ON
MONEY LAUNDERING AND TERRORIST
FINANCING**

2013

*Issued by the Anti-Money Laundering Compliance Unit
Department of Justice and Equality*

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Section 1 - Introduction

This Report has been prepared on foot of 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. Its purpose is to provide an overview of Ireland's response to money laundering. The Report sets out the legislative and regulatory framework for tackling money laundering along with the roles played by the various enforcement authorities. Information in this regard is provided in both a narrative and statistical format.

What is money laundering?

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 wide ranging 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 personal gain and to fund further criminal enterprises.

Money laundering is commonly defined as happening in 3 steps:

1. **Placement** – Introduction of cash into the financial system by some means;
2. **Layering** – To undertake complex financial transactions to camouflage the illegal source;
3. **Integration** – The acquisition of wealth generated from the transactions of the illicit funds.

Section 2 - Money Laundering and the Law in Ireland

Background

The general framework of the 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 sanctions are applied in those cases.

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

Legislative developments

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). The offence of financing terrorism was subsequently criminalised in the Criminal Justice (Terrorist Offences) Act 2005 which amended Sections 32 and 57 of 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 introduced a new and strengthened regime to combat money laundering and terrorist financing. The 2010 Act transposed the Third EU Money Laundering Directive (2005/60/EC) and the associated Implementing Directive (2006/70/EC) into Irish Law thereby bringing Ireland into line with EU requirements. It also gave effect to certain recommendations of the Financial Action Task Force (FATF) - the international anti-money laundering and anti-terrorist financing body which was established by the G7 countries. The Act consolidated Ireland's existing anti-money laundering and terrorist financing laws, which until then had been contained mainly in the Criminal Justice Act 1994.

In terms of measures mitigating the risks posed by the laundering of illicit funds, the Act places a number of obligations on a wide variety of businesses including:

- Financial Institutions
- Credit Unions
- Electronic money institutions
- Retail credit firms
- Moneylenders
- Insurance undertakings and insurance intermediaries
- Investment business firms
- Collective investment schemes
- Funds and Fund services providers

- Bureaux de Change and Money Transmission Businesses
- Independent legal professionals (Barristers and Solicitors)
- Auditors and external Accountants
- Tax Advisers
- Trust or Company Service Providers
- Dealers in High Value Goods (*specifically those who may receive payments in cash of at least €15,000 whether in a single transaction or in a series of linked transactions*)
- Private Member's Clubs

In order to ensure that these businesses (referred to in the legislation as 'designated persons') have put in place the required anti-money laundering and terrorist financing procedures a number of competent authorities are assigned supervisory roles. These competent authorities include entities such as the Central Bank of Ireland, the Anti-Money Laundering Compliance Unit of the Department of Justice and Equality alongside a range of others with expertise in the relevant sectors. Competent authorities conduct inspections, risk assessments and employ a range of other measures to mitigate risks in these sectors. 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 the Revenue Commissioners.

In terms of the consequences 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.

The Irish anti-money laundering 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.
- 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, to designated persons requiring them to take particular actions for the purpose of compiling with Part 4 of the 2010 Act.

Guidelines¹

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.

¹ <http://www.finance.gov.ie/sites/default/files/Criminaljustice2012.pdf>

Section 3 - Combating Money Laundering and Terrorist Financing in Ireland

3.1 Enforcement

Reporting suspicions of money laundering and terrorist financing

In order for Ireland's anti-money laundering and terrorist financing regime to be effective, designated persons must disclose any knowledge or suspicions they may have regarding such activities to An Garda Síochána and 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.

Information to be set out in an STR includes:-

- the information on which the designated person's 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.

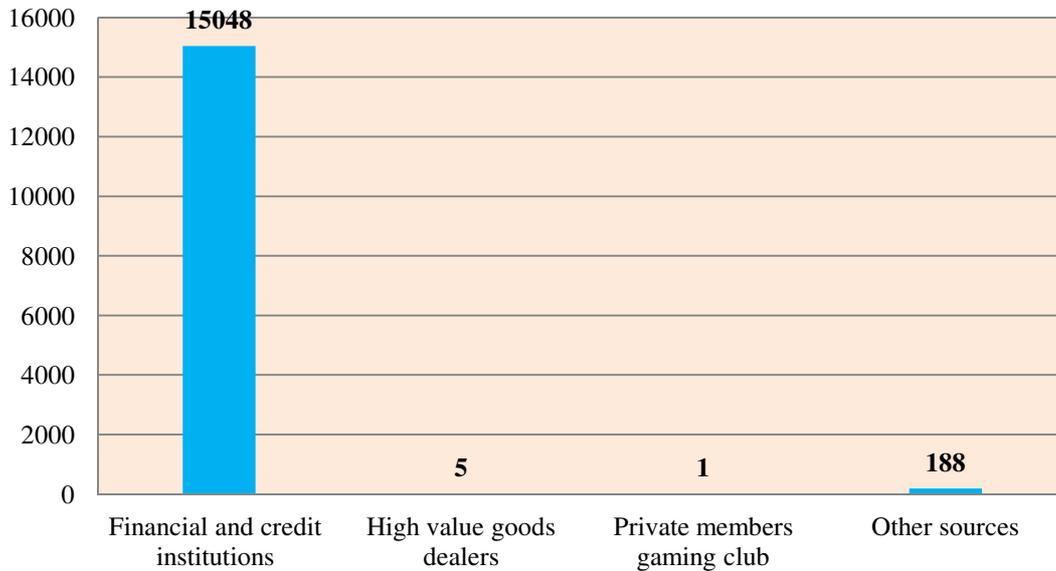
When An Garda Síochána and/or the Revenue Commissioner receive an STR which indicates a criminal offence or when there are other issues of mutual concern, both organisations communicate with each other closely. In such instances, An Garda Síochána undertakes an investigation and upon completion the Revenue Commissioner enquires as to the potential occurrence of tax offences.

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

An Garda Síochána

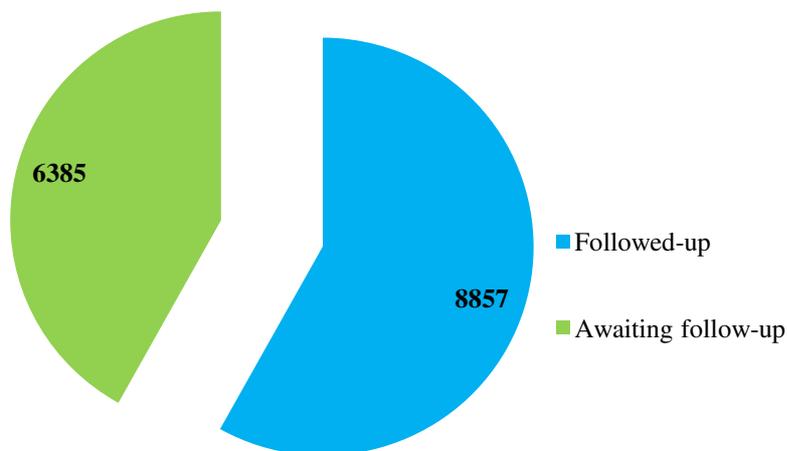
In 2013, An Garda Síochána received a total of 15,242 STRs. In the vast majority of cases (15,048) reports originated from credit and financial institutions. In a very small number of cases (5) reports were received from high value good dealers (HVGDs) and 1 report was received from a private member's club (PMC).

Figure 1: STRs received by An Garda Síochána



At the end of the reporting period more than half of the STRs submitted during 2013 had been followed up.

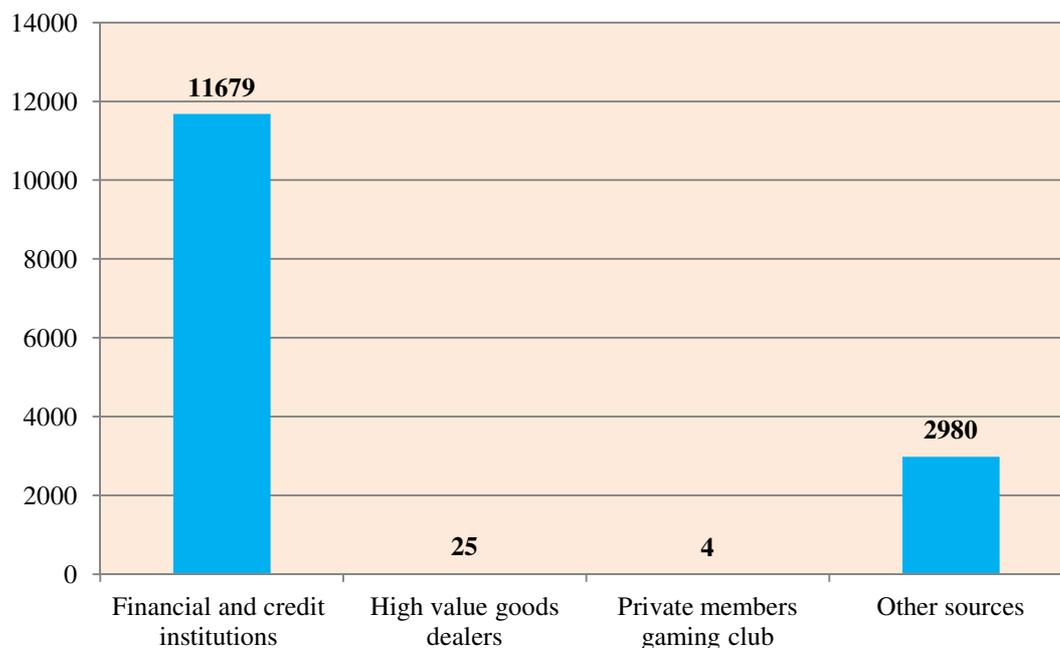
Figure 2: Follow-up of STRs by An Garda Síochána



The Revenue Commissioners

During 2013, the Revenue Commissioners received a total of 14,688 STRs. As with An Garda Síochána, in the vast majority of cases (11,679) reports originated from credit and financial institutions. In a very small number of cases (25) reports were received from HVGDs and 4 reports were received from PMCs.

Figure 3: STRs received by the Revenue Commissioners



It is estimated that in excess of 80% of STRs received by the Revenue Commissioners concern tax related offences. However, STRs are also used for other purposes including the identification and investigation of drug smuggling and customs offences (see **Seizure of Assets**). STRs are also employed in activities such as auditing and compliance monitoring.

Criminal Justice response: Director of Public Prosecutions

In 2013 the Director of Public Prosecutions (DPP) directed charges for money laundering offences in six cases. No confiscations orders were made directly in regard to these cases and some were ongoing at the end of the reporting period.

Seizure of assets

The amount of property seized, frozen or confiscated by Customs Officers in 2013 amounted to **€385,020**. However, this only constitutes cash forfeitures. The total value of goods seized by Customs activity was **€29,503,329**. These seizures were composed of cigarettes, alcohol, laundered oil and vehicles. Information gleaned from STRs provides an important intelligence source in regard to such seizures. The tax yield as a direct result of STRs amounted to €8,853,657 for 2013.

The total value of all Confiscation and Forfeiture Orders obtained under the 1994 Act in the name of the DPP in 2013 amounted to €1,251,528.

3.2 Supervision

Supervising ‘Designated Persons’

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. As such, 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 the different fields.

The following sets out the sectors under regulation and the competent authorities with responsibilities in this regard.

Business Sector	Competent Authority
Credit and Financial Institutions	Central Bank of Ireland
Solicitors	Law Society of Ireland
Barristers	General Council of the Bar of Ireland
Auditors External Accountants Tax Advisors Trust or Company Service Providers <i>(who are members of a designated accountancy body)</i>	Designated Accountancy Body
Any designated person who is not subject to supervision by another competent authority e.g. dealers in high value goods, trust or company service providers and tax advisors who do not fall under the remit of an accountancy body)	Minister for Justice and Equality

Mitigating the risks of money laundering and terrorist financing

The regulatory framework is primarily focused on compliance with 'defensive' measures designed to mitigate the risk of money laundering and terrorist financing. These measures include the following:

- 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 under Section 63 of the 2010 Act²;
- The development and maintenance of anti-money laundering policies and procedures by designated persons;
- The provision of staff training.

In order to ensure that designated bodies have put defensive measures in place Competent Authorities have a range of powers and sanctions that they may apply. These can include:

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

² As with similar such reports made by designated persons under Section 42 of the 2010 Act, Section 63 reports are also commonly referred to as the Suspicious Transaction Reports or STRs.

The Role of the Competent Authorities

Anti-Money Laundering Compliance Unit

The Anti-Money Laundering Compliance Unit (AMLCU) was established in the Department of Justice and Equality in 2010 to administer the functions of a State Competent Authority conferred on the Minister for Justice and Equality.

Supervision

The AMLCU is responsible for authorisation, registration and compliance monitoring in respect of approximately 6,000 businesses operating in several different sectors, including:

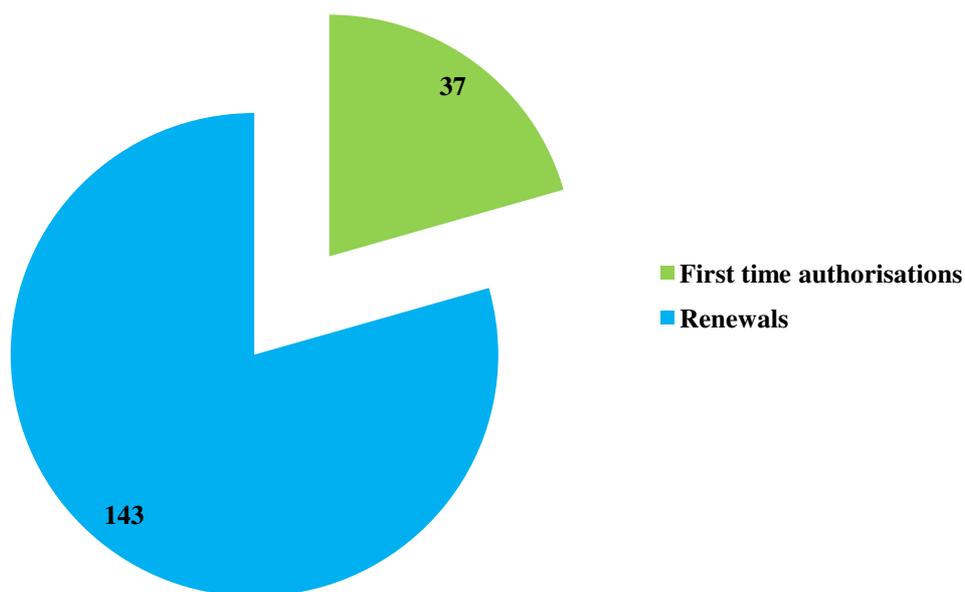
- Trust or Company Service Providers (TCSPs),
- Persons trading in goods for cash values of €15,000 or more (High Value Goods Dealers (HVGDs),
- Tax Advisers and External Accountants who are not already supervised by a competent authority and
- Private Member's Clubs (PMCs)³ where gambling activities are carried on.

Authorisations for TCSPs

AMLCU issued a total of 180 TCSP authorisations in 2013 comprising 37 new authorisations and 137 renewals of authorisations. At the end of the reporting period a total of 310 TCSPs were recorded as having been authorised by the AMLCU.

Figure 4: Authorisations for TCSPs

³ AMLCU registers Private Member's Clubs at which gambling activities are carried on, but only in respect of those gambling activities.



Registration of PMCs

During 2013, 9 PMCs registered with the AMLCU for the first time. At the end of the reporting period a total of 38 PMCs were recorded as having registered with the AMLCU.

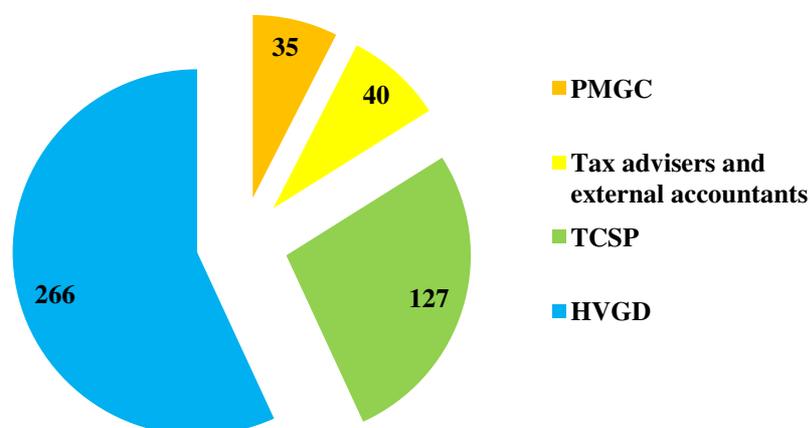
Table 1: Registration of PMCs

Category	Number
First time registrations	9
Total number of registered PMCs	38

Compliance inspections

In 2013, 468 inspections were conducted across a range of different sectors, the majority of which were focused on HVGDs and TCSPs.

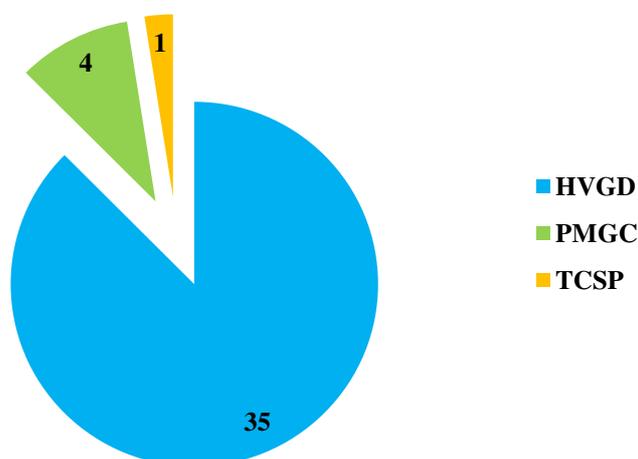
Figure 5: Compliance inspections



Reporting of suspicions

Section 63 of the 2010 Act provides for the reporting of suspicions concerning money laundering or terrorist financing to the Garda Síochána and the Revenue Commissioners by a competent authority. In this regard AMLCU made a total of 40 such reports in regard to a range of businesses, the majority of which were for HVGDs.

Figure 6: Reporting of suspicions



The Central Bank of Ireland

The Central Bank of Ireland (CBI) 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.

Supervision

In 2013 the CBI conducted a total of 23 inspections and 44 risk assessments across a variety of institutions.

Table 2: Inspections and risk assessments by the Central Bank of Ireland

Type of institution	Inspection	Risk assessment
Retail Banks	3	21
Credit Unions	7	10
Markets	0	13
Payment Institutions	2	0
Moneylenders	5	0
Bureaux de Change	3	0
Investment Asset Managers	2	0
Multi-Agency Intermediary	1	0
Total	23	44

Other measures

In addition to inspections and risk assessments the CBI also engaged in a range of other AML-CTF activities primarily in the areas of policy guidance and technical assistance. These included:

- assisting in the publication of guidelines for credit unions in January 2013:

- making presentations to a number of professional firms and industry bodies (including the Irish League of Credit Unions and the Irish Banking Federation), providing technical assistance to the Department of Finance on a series of technical working party meetings relating to the Commission's proposal for a fourth money laundering directive;
- providing technical assistance to the Department of Finance in key engagements with the Financial Action Task Force (FATF) (which led to Ireland's removal from the FATF enhanced follow up procedure) and
- providing technical assistance and advice to Departments and Agencies involved in amending the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010.

The Law Society

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.

Supervision

In 2013, 84% of the 362 firms examined by the Law Society for AML compliance had implemented AML compliance procedures pursuant to Irish legislation. This typically involved the firms having formal written procedures in place which had been communicated to staff and which had been demonstrated as having been implemented. Of those firms who had not implemented AML procedures, this was often accounted for by the absence of formal written procedures.

Reporting of suspicions

During 2013, the Law Society's Money Laundering Reporting Committee made 9 reports regards suspicions of money laundering to An Garda Síochána and the Revenue Commissioners.

Other measures

In addition to supervision the Law Society also engaged in a range of other AML-CTF activities including:

- Information, communication and educational resources such as
 - guidance notes,
 - a dedicated AML-resource hub on the Society's website,
 - regular articles on money laundering in the Society's bi-monthly eZine and

- ALM training for trainee and qualified solicitors
- Confidential guidance on ALM issues on an individual basis via email or phone.
- Issuing practice notes regarding specific ALM procedures.

Chartered Accountants Regulatory Board⁴

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 and currently supervises the ALM compliance of persons holding practising certificates and their firms.

Supervision

CARB conducts AML supervision as part of its overall established quality review process. This process is comprised of two parts:

- An assessment of the Annual Return submitted by all member firms which incorporates a risk analysis to help identify higher risk firms.
- Inspections to a select number of firms during which money laundering risks are assessed.

Reporting of suspicions

CARB did not receive any reports regarding suspicions of money laundering through its internal reporting system in 2013. This level of reporting is consistent with CARB’s view that firms under its supervision are at low risk of being used to facilitate money laundering.

Other measures

⁴ In addition to the Chartered Accountants Ireland, there are 8 other prescribed accountancy bodies in Ireland. See <http://iaasa.ie/Links/Accountancy-Bodies> for details.

In addition to its supervisory activities CARB has also put in place a range of other measures for the purposes of mitigating the risks posed by money laundering and terrorist financing primarily in the areas of training, advice and guidance services. These include:

- The anti-money laundering section of CARB's website,
- CARB's Regulatory Bulletin (quarterly issues),
- Electronic Newsletters from Chartered Accountants Ireland (weekly issues),
- AML guidance from the Consultative Committee of Accountancy Bodies – Ireland (of which CARB is a member),
- Training courses to cover relevant Irish and UK legislation,
- Advice via a technical helpline.