Group Briefing

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AML Update: Department of Finance publishes National Risk Assessment for Ireland

KEY CONTACTS

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The Department of Finance has published its first National Risk Assessment for Ireland (Money Laundering and Terrorist Financing) (the **Risk Assessment**) in conjunction with the Department of Justice and Equality with the intention of improving understanding of Ireland's risks in this area, enabling strategies to be developed to address those risks, and allocating resources to implement those strategies. In line with Ireland's ongoing commitments as a member of the Financial Action Task Force and in anticipation of its ongoing commitments once the Fourth Money Laundering Directive (**MLD4**) comes into force (see our recent briefing: MLD4: Earlier Transposition?), the Risk Assessment will be updated on an ongoing basis.

KEY FINDINGS – FINANCIAL SECTOR

Various financial services sectors were assessed and given an overall risk rating for potential money laundering (**ML**) and terrorist financing (**TF**) risks. The Risk Assessment noted that high risk ratings were not indicative of a lack of compliance in the relevant sector, but that instead some sectors, by their nature, always have a higher level of residual risk. High risk ratings were given to, among others, the retail banking and money remittance sectors, with the lowest ratings given to trust or company service providers (**TCSPs**) and retail intermediaries.

» ***Retail Banks***

The core retail banks operating in the Irish system are viewed as being particularly vulnerable to ML and TF due to their central function within the banking system, with the volume of transactions processed by those banks making it more difficult to detect possible issues.

In 2015, 62% of suspicious transaction reports (**STRs**) were made by credit institutions, with the majority of that 62% reported by the core retail banks.

» ***Non-Retail Banks***

The 17 non-retail banks were assessed as having a **medium-high** ML and TF risk, largely attributable to the non-face-to-face nature of many of their dealings, their diverse customer base which can often include politically-exposed persons and the complex nature of the products that they offer.

» ***Payment Institutions***

Over 6% of STRs made in 2015 were made by payment institutions. Those payment institutions categorised as money remittance firms were assessed as being at **high** risk of exposure to ML and TF due to the cash-based nature of their business, their transient customer base and their use of agents. Other types of payment institutions were assessed as being at **medium-low** risk; their customer relationships are more long-lasting in nature, and their transactions are less cash-based.

» ***Life Assurance***

While overall the domestic and cross-border life assurance sector was assessed as having a **medium-low** risk due to the less flexible nature of some of the products, single premium investment products were deemed to be of higher risk; the Risk Assessment noted that this risk could be mitigated by due diligence and by controls at point of claim/encashment time.

» ***Funds and Fund Administrators***

The risk assessment for the funds industry was **medium-high**, in particular in light of its broad customer base, complex legal structures and wide geographical reach. The high level of outsourcing in this sector was also highlighted. Fund administrators were viewed as being particularly exposed to a high level of risk due to their direct relationship with the client.

» ***Asset Managers and Investment Firms***

The 77 asset managers authorised by the Central Bank were assessed as being at **medium-low** risk for ML and TF. While asset managers deal with complex ownership structures, there is often face-to-face customer interaction at the outset, with detailed source-of-funds information sought and long-lasting business relationships developed.

Investment firms other than asset managers were assessed as being at **medium-high** risk however, as many customer dealings are carried out without face-to-face contact and a number of higher-risk trade execution and wealth management services are provided.

» ***Credit Unions***

The ML and TF risk for credit unions was assessed as **medium-low** in light of the local services that they provide. It was noted however that, as more dealings move online rather than taking place face-to-face, this could make customer due diligence (**CDD**) more difficult for these entities.

» ***Moneylenders***

In light of the small cash amounts that are usually the subject of transactions carried out by moneylenders, the 40 authorised moneylenders within the scope of the Risk Assessment were viewed as being at **medium-low** risk for ML and TF purposes.

» ***TCSPs***

As the TCSPs that are authorised by the Central Bank are subsidiaries of credit institutions and financial institutions that are themselves regulated by the Central Bank, the ML and TF risk associated with these entities was viewed as **low**, as the services they provide are generally ancillary to those provided by their regulated parent entities.

» ***Retail Intermediaries***

For the approximately 2,000 Irish retail intermediaries, their risk of exposure to ML and TF was assessed as **low** on the basis that they generally do not handle cash.

OTHER NOTABLE FINDINGS

» ***TCSPs in the non-financial sector***

These entities, which often provide company incorporation services, registered office and nominee shareholder services were assessed as being at **medium-high** risk for ML and TF due to their potential exposure to high-risk jurisdictions, and a lack of face-to-face contact with potential customers. However, the Risk Assessment noted the strict authorisation and inspection processes imposed on those TCSPs by the Minister for Justice and Equality (as competent authority) were potential mitigants. When MLD4 comes into force, it may further reduce the risk in this sector as Member States must ensure that entities incorporated in their jurisdictions obtain and hold "*adequate, accurate and current information on their beneficial ownership*" which can be accessed by competent authorities and EU Financial Intelligence Units. For further details, see our briefing: Fourth Money Laundering Directive published in Official Journal.

» ***Companies – Risk Mitigants***

A number of factors were also listed in the Risk Assessment as reducing the exposure in respect of Irish corporates to ML and TF, including the following:

- the fact that Irish competent authorities operate in a relatively unified manner;
- the efficient nature of the "*file and publish*" regime in the Companies Registration Office (**CRO**);
- the work of the Office of the Director of Corporate Enforcement;
- the interface between the CRO and the Revenue Commissioners, leading to an increased level of cooperation between both organisations; and
- the top compliance rating given to Ireland by the OECD regarding the exchange of tax-related information.

» ***Digital Cash and Virtual Currency***

The Risk Assessment noted that the area of electronic money will be kept under constant review due to possible ML and TF risks, but noted that there has been little indication to date that e-money is being used in Ireland for ML and TF purposes, perhaps due to the requirement that issuers of e-money be licenced, and the fact that only amounts below a low threshold would bring a transaction outside of CDD requirements.

» Regarding virtual currencies, it was noted that these could provide an untraceable facility to carry out both ML and TF, but that the risks involved do not yet seem to have come to the forefront in Ireland. This particular area continues to be subject to monitoring both in Ireland and at EU level.

Overall, the Risk Assessment provides extremely useful insight into the current levels of ML and TF risks that financial services providers face in Ireland, the legal and supervisory structures in place to protect the financial services industry, and the avenues open to competent authorities in Ireland to pursue those who breach the anti-money laundering (**AML**) and counter-terrorist financing (**CTF**) regime.

If you require advice in relation to your AML and CTF policies and procedures, or if you would like to discuss the expected impact of MLD4 on your business, please contact Orla O'Connor or Rob Cain.