



# MEASURES TO ENHANCE IRELAND'S CORPORATE, ECONOMIC AND REGULATORY FRAMEWORK

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Ireland combatting  
“white collar crime”

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# MEASURES TO ENHANCE IRELAND'S CORPORATE, ECONOMIC AND REGULATORY FRAMEWORK

## (Ireland combatting "White Collar Crime")

### Section 1 Introduction

Government is committed to ensuring that the legal and regulatory environment is subject to regular scrutiny and review so that it is strengthened appropriately to meet emerging risks and challenges. Following a review by the Tánaiste and Minister for Business, Enterprise and Innovation, Frances Fitzgerald TD, the Minister for Finance and Public Expenditure and Reform, Paschal Donohoe TD and the Minister for Justice and Equality, Charlie Flanagan TD, Government has agreed a package of measures to further enhance the framework in place to tackle corporate, economic and regulatory offences.

A comprehensive set of actions aligned to four distinct themes has been developed to augment the existing regulatory and legislative framework in Ireland in the area of corporate, economic and regulatory crime. The identified themes are:

1. Organisational and procedural reform;
2. Corporate governance;
3. Enhancing the powers of the authorities to identify and combat economic and regulatory offences in the financial sector; and
4. Countering Money Laundering and Corruption.

Each action contains milestones for delivery which are time-bound and has been assigned a lead Department for implementation.

The main actions include:

- a) Establishing the Office of the Director of Corporate Enforcement as an independent company law enforcement agency, to provide greater autonomy to the agency;
- b) Establishing a Joint Agency Task Force on a pilot basis to tackle criminality in a specific area. The merits of the Joint Agency Task Force approach will be assessed as part of a wider review of the effectiveness of state bodies engagement on fraud and corruption;
- c) Enacting the Criminal Justice (Corruption Offences) Bill which involves a major consolidation of anti-corruption legislation, introduces new offences and includes legislative provision for recommendations arising from the Mahon Tribunal;
- d) Publishing and enacting the Criminal Procedure Bill, which will, inter alia, streamline criminal procedures to enhance the efficiency of criminal trials;
- e) Implementing the Markets in Financial Instruments Directive II (MiFID II) to improve the functioning of financial markets, making them more efficient, resilient and transparent and to strengthen investor protection;
- f) Evaluating the Protected Disclosures Act, which can relate to any aspect of the operation of

the Act but seeks to inform in particular, whether the legislation has been effective in line with its objectives; and how it might be improved;

- g) Ensuring this package of measures will be subject to regular scrutiny by the Oireachtas to monitor the implementation of the measures and ensure the regulatory environment is enhanced, while also increasing the prevention, identification, investigation and prosecution of corporate, economic and regulatory offences. This, in turn, will enhance Ireland's competitiveness and attractiveness as a place to do business.

While Ireland, like every jurisdiction can strengthen its regulatory framework, it is important to note that Ireland is already recognised as a secure place in which to do business and Ireland has achieved a reputation as a low risk economy in which business can operate. Global competitiveness surveys consistently rank Ireland in the top tier of countries for business to operate in. This would not be possible without a solid and stable business environment underpinned by appropriate regulation and legislation.

Ireland's regulatory and enforcement regime is very active and a sample of its output in 2016 is outlined below:

- The Central Bank of Ireland (CBI) carried out 4,586 Prudential Supervisory Engagements and Themed Inspections across the financial sector marking a 30% increase since 2014;
- Enforcement penalties totalling over €12 million were imposed by CBI;
- 341 tax defaulters were published by the Revenue Commissioners;
- €555 million was yielded by the Revenue Commissioners from over 537,000 audit and compliance interventions;
- Tax offences identified by the Revenue Commissioners resulted in 1,006 summary criminal convictions;
- 90 company directors were restricted and a further 11 disqualified by the High Court on foot of action taken by the Office of the Director of Corporate Enforcement (ODCE);
- 93 Restriction Undertakings were obtained from directors of insolvent companies by the ODCE; and
- Directors' loan infringements, in 60 cases and to an approximate aggregate value of €17m, were rectified on foot of ODCE actions.

A recent example of Ireland's standing as a global leader in combatting corporate, economic and regulatory crime is provided by the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes. In August 2017, it awarded Ireland the highest international rating on tax transparency and exchange of information. This intensive peer review process examined the legal and regulatory framework in Ireland and the implementation of the exchange of information on request standards in practice. Ireland was one of just three jurisdictions to be awarded the highest possible overall rating of "Compliant" in the new and enhanced peer review process.

Although Ireland's regulatory and legal provisions have been recognised as being robust, they are regularly reviewed to stress-test their effectiveness and, where appropriate, new provisions are brought forward.

For example, the Company Law Review Group (CLRG) provides reports to the Minister for Business, Enterprise and Innovation on a regular basis assessing the effectiveness of existing company law. The CLRG's output is considered by the Minister and legislative proposals are brought forward as appropriate. Similarly, the annual Finance Act regularly amends the powers available to the Revenue Commissioners to encourage greater compliance and enforcement of tax law.

It may be of benefit to summarise some important recent legislative developments and consideration of policy in this area that is already underway.

### **Legislative measures introduced since the financial crisis**

The Criminal Justice Act 2011 was enacted to facilitate the more effective investigation of white-collar crime and to reduce associated delays in the process. The Act is targeted at specified serious and complex offences attracting a penalty of at least 5 years imprisonment, including offences in the areas of banking and finance, company law, money laundering, fraud and corruption.

Part 5 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013 makes provision for the selection of up to 15 jurors to serve in a criminal trial which is likely to last more than 2 months, with 12 jurors to be selected to consider the verdict. These provisions are of relevance to lengthy trials where there is a greater risk of jurors becoming unavailable at some point.

The Companies Act 2014 is the largest piece of legislation ever introduced in the State. It consolidated all existing company law in Ireland providing a corporate legislative framework that reflects international best practice. For the first time, directors' duties were codified providing a clear legislative basis of their legal responsibilities. It also introduced a new four-tier categorisation of offences. Subject to a small number of exceptions, all offences under the Companies Act are categorised according to this four-tier scheme. At the higher end of the scale, category 1 offences carry, following conviction on indictment, a term of imprisonment up to 10 years and/or a €500,000 fine. At the other end of the scale, a category 4 offence can only be tried summarily and is punishable by imposition of a Class A fine. The Act also recognises the 'Think Small First' principle by placing less onerous compliance and reporting requirements on SMEs facilitating the growth of new companies and associated employment.

The Central Bank Reform Act 2010, which commenced on 1 October 2010, created a new single body called the Central Bank of Ireland which is responsible for both central banking and financial regulation. It replaced the previous related bodies – the Central Bank and the Financial Services Authority of Ireland (generally known as the Central Bank) and the Irish Financial Services Regulatory Authority (Financial Regulator). Separately, the Central Bank (Supervision and Enforcement) Act 2013 further enhanced the Bank's powers to regulate the financial sector appropriately.

Numerous legislative measures have been implemented to assist Revenue in dealing with non-compliance in all its forms, including tax evasion, and this is an ongoing, incremental process. Typically, this is done by means of an annual Finance Act and such powers are integral to Revenue's work in tackling non-compliance. For example, Revenue action against offshore evasion in 2016 was underpinned by the use of statutory powers to obtain information from financial institutions and third parties, as well as exchange of information with other jurisdictions under Mutual Assistance

arrangements and Tax Information Exchange Agreements. Capacity to act against offshore evasion will be strengthened considerably by data received under a series of new, international, Automatic Exchange of Information agreements.

Non-compliance manifests itself in many ways and Revenue has a wide range of intervention options available ranging from assurance checks to audit to enforcement to criminal prosecutions for serious tax, duty and customs fraud and evasion. Revenue employs sophisticated risk-assessment and intelligence-gathering systems to target its interventions for optimum impact.

### **Ongoing Reviews**

The Law Reform Commission (LRC) anticipates completing its examination of corporate offences and regulatory enforcement and publishing its recommendations in the form of a consultation paper prior to the end of 2017.

Separately, the CLRG is currently undertaking a comprehensive review of how company law is enforced in Ireland. A subcommittee of the CLRG has compiled a discussion document that examines a wide variety of matters on the enforcement of company law: an overview of the compliance and enforcement bodies, the potential for legislative coherence and exploration of further offences, methods for promoting compliance and enforcement, the sanctioning of wrongdoing and the processes for trying criminal offences. A separate subcommittee on Corporate Governance is preparing a suite of recommendations for legislative change intended to further refine the Corporate Governance provisions of the Companies Act 2014.

## Section 2 Organisational and procedural reforms

### 2.1 Legislation relating to criminal procedure

Partly in response to the challenges posed by the recent banking crisis, and also in the context of wider international developments, Ireland has considerably strengthened its legislative framework in relation to criminal procedure in recent years.

As outlined in Section 1, the Criminal Justice Act 2011 was enacted to facilitate the more effective investigation of white collar crime and to reduce associated delays in the process. The Act provides for procedures to facilitate Garda access to essential information and documentation to assist in investigations. The Act is targeted at specified serious and complex offences attracting a penalty of at least 5 years imprisonment, including offences in the areas of banking and finance, company law, money laundering, fraud and corruption.

Section 57 of the Criminal Justice (Theft and Fraud Offences) Act 2001, which was commenced on 3 August 2011, assists juries by allowing the judge to order copies of documents, charts, transcripts and summaries of evidence to simplify what is contained in evidence relating to complex transactions.

Another relatively recent provision of relevance is Part 5 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013. It makes provision for the selection of up to 15 jurors to serve in a criminal trial which is likely to last more than 2 months, with 12 jurors to be selected to consider the verdict. These provisions are of relevance to lengthy trials involving fraud or other complex financial matters where there is an increased risk of jurors becoming unavailable during the course of a protracted trial.

When added to the forthcoming changes in the Criminal Justice (Corruption Offences) Bill and the Criminal Procedure Bill, these legislative changes will significantly assist the State in prosecuting corporate, economic and regulatory crime, including fraud and corruption, more effectively.

### 2.2 Enforcement of Company Law

In Ireland, the following entities all have a role in the enforcement of company law:

- Companies Registration Office (CRO);
- Office of the Director of Corporate Enforcement (ODCE);
- Irish Auditing and Accounting Supervisory Authority (IAASA);
- Director of Public Prosecutions (DPP);
- The Central Bank of Ireland.

The CRO is the statutory authority for registering new companies in Ireland. Companies have an obligation under law to file certain documents with the CRO. This includes a requirement to file annual returns, and in most cases annual financial statements. The CRO can take a number of measures to deal with companies who fail to file their annual returns, including prosecution of the

company or directors, or striking the company off the register. If a company is struck off, the protection of limited liability no longer exists and individuals can be held personally liable for any debts incurred after strike off. Also, the assets of such a company will become the property of the State. In 2016, 8,302 companies were struck off the register for their failure to file annual returns. The programme of enforcement is ongoing.

The Irish Auditing and Accounting Supervisory Authority (IAASA) is the independent body in Ireland responsible for the:

- examination and enforcement of certain listed entities' periodic financial reporting;
- supervision of the regulatory functions of the Prescribed Accountancy Bodies ('PABs'); and
- the inspection and promotion of improvements in the quality of auditing of Public Interest Entities comprising of entities with securities listed on a regulated market, credit institutions and insurance undertakings

If IAASA finds that a PAB has failed to comply with its approved investigation and disciplinary procedures it may impose sanctions, including fines up to €125,000 on the PAB concerned. IAASA is also the competent authority for the oversight of statutory auditors in Ireland, including oversight of the manner in which the six Recognised Accountancy Bodies perform the functions assigned to them in law in respect of statutory auditors, namely approval and registration, continuing education, quality assurance systems and investigative and administrative disciplinary systems. Under financial reporting supervision, as a competent authority under the Transparency (Directive 2004/109/EC) Regulations 2007, IAASA examines selected financial reports of relevant entities whose securities are admitted to trading on a regulated market. Under the Regulations, IAASA can secure undertakings from directors that deficiencies will be rectified in future financial reports and can also refer a matter to the Central Bank, which can impose sanctions including a monetary penalty of up to €2.5m.

Part 24 of the Companies Act 2014 makes provision for the establishment of companies as investment companies. These companies are commonly referred to as non-UCITS investment companies. In order to be permitted to operate, non-UCITS investment Companies must be authorised by the Central Bank. Such companies are a key constituent of the set of legal structures under which the international collective investment funds industry operates in Ireland. These companies are supervised by the Central Bank.

As an independent office, the fundamental function of the Director of Public Prosecutions is the direction and supervision of public prosecutions and related criminal matters. This involves enforcement of criminal law in the courts on behalf of the People of Ireland; directing and supervising public prosecutions on indictment in the courts; and giving general direction and advice to the Garda Síochána in relation to summary cases and specific direction in such cases where requested.

### **Role of the ODCE**

The ODCE was established on foot of a recommendation from the 1998 Report of the Working Group on Company Law Compliance and Enforcement. At that time, it was stated that Irish company



law was characterised by a culture of non-compliance and a failure by companies and their officers to meet their obligations in respect of the filing of annual returns on time. For example, in 1997 only 13% of companies complied with their obligations to file annual returns on time. This figure is now close to 90%.

The functions of the Director of Corporate Enforcement are set out in section 949 of the Companies Act 2014. The primary functions are to:

- encourage compliance with the Act;
- investigate suspected offences and non-compliance with the Act or with the duties and obligations to which companies and their officers are subject;
- enforce the Act, including by the prosecution of offences by way of summary proceedings;
- refer cases to the DPP where the Director has reasonable grounds for believing that an indictable offence under the Act has been committed;
- exercise a supervisory role over the activity of liquidators and receivers in the discharge of their functions under the Act.

Following a recent case concerning alleged breaches of the Companies Acts, Judge John Aylmer said that he intended to direct the jury to acquit the defendant citing concerns with the investigative process undertaken by the ODCE. This investigation had been undertaken between 2009 and 2012 and the file related to the investigation was sent to the Director of Public Prosecutions in the first half of 2012.

While it is crucial to identify and learn from any shortcomings in the investigative process, such as those identified by Judge Aylmer, it is also important to recognise the valuable role the ODCE has played and continues to play in facilitating compliance and enforcement of company law. Between the period 2012 to 2016, investigations by the ODCE have resulted in:

- 977 Company Directors being restricted;
- 65 Company Directors being disqualified by the High Court; and
- Directors' loans infringements totalling €221m rectified on foot of action by the ODCE.

Furthermore, the organisational reforms undertaken by the ODCE since 2012 point to a more effective and efficient use of its resources. These improvements include:

- Reorganising the structures of the Office;
- Recruiting additional expertise, most notably six forensic accountants and a digital forensics specialist;
- Fundamentally amending the investigative procedures used by the Office, with members of An Garda Síochána now taking the lead on all criminal investigations; and
- Fostering a greater culture of risk management.

Following consideration of the issues highlighted by Judge Aylmer, deliberation has been given as to whether the Office can be provided with greater State support to assist it in carrying out its statutory functions.

At present, the ODCE is headed by a Director as provided for under section 945 of the Companies Act 2014. Section 946(4) of the Act states that the Director is a civil servant upon appointment. All

recruitment to the Office is managed through the Department of Business, Enterprise and Innovation (DBEI). Specialist competitions can be undertaken through the Public Appointments Service (PAS) when specific skill sets are identified as being required. For example, recent competitions have been run through PAS for forensic accountants, Enforcement Portfolio managers and a digital forensics specialist.

### **Proposed changes to the ODCE**

Government has decided to establish a new independent Agency to greater enhance the State's ability to undertake modern, complex corporate law enforcement. The Agency will have more autonomy and flexibility to adapt to the challenges it faces in encouraging greater compliance with the Companies Act 2014 and to thoroughly investigate suspected breaches of the Act. It will be able to acquire the expertise it requires through the recruitment of more specialist staff. This builds on the recent approach adopted by the ODCE through the recruitment of six forensic accountants and a digital forensics specialist.

For an entity with responsibility for company law enforcement, Government's view is that a structure similar to a Commission is most appropriate. This differs from a typical State Agency which is assisted in undertaking its functions by a non-executive board. In practice, this will result in a Chief Commissioner assisted by other Commissioners who have delegated responsibilities for specific functions.

These changes will require legislation to facilitate a transition to a more adaptable and specialised company law enforcement entity with responsibility for company law enforcement.

Government is committed to ensuring the new Agency will operate in line with international best practice. This includes its internal controls, staffing, budget, corporate governance etc. Preliminary engagement has already been undertaken with the Organisation for Economic Co-operation and Development's Directorate of Public Governance to seek their assistance in taking account of international best practice in the establishment of the Agency. The OECD's Public Governance team have vast experience in carrying out organisational reviews around the world. For example, they are currently engaged in a review of the Commission for Energy Regulation in Ireland.

As part of this consultation, an assessment will also be made as to how the role of An Garda Síochána can be optimised within the new Agency in aiding it to carry out its statutory remit.

### **2.3 Wider structural issues**

Aside from the enforcement of company law, the development and implementation of anti-corruption policies does not rest with any one body in the jurisdiction. The competence to prevent, detect, investigate and prosecute corruption is spread across An Garda Síochána and a number of other agencies with a mandate to tackle corruption.

It is timely now to look at the roles each agency plays and plays and to examine procedural issues in this area. The Minister for Justice and Equality proposes the establishment of a Garda-led Joint Agency Task Force on a pilot basis to tackle criminality in a specific area. The prima facie advantage

of a Joint Agency Task Force to examine a particular area is that it allows tailored expertise to be drawn on depending on the aspects of criminality being targeted. It is proposed to establish one Joint Agency Task Force on a pilot basis and the Minister for Justice and Equality has identified the issue of payment fraud (including invoice redirection fraud and credit card fraud) as the Task Force's area of activity. Payment fraud is increasingly prevalent and increasingly sophisticated and can have devastating effects on businesses, resulting in closures of companies and job losses.

The Task Force will operate for six months and the findings from this exercise will feed into the overall review of anti-fraud and anti-corruption structures and procedures which will be spearheaded by the Department of Justice and Equality.

#### **2.4 Court proceedings in corporate, economic and regulatory crime trials**

Court hearings in relation to complex financial transactions by their nature tend to be protracted, due to the complexity of the issues and the volume of documentation involved. Part 5 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013, referred to at 2.1 above, has been of assistance in terms of juror availability, but there is a need to go further.

At present, the jury is empanelled but the jurors must frequently make themselves available for lengthy periods without being able to hear evidence, while various pre-trial legal issues are heard in their absence. The Criminal Procedure Bill, the draft scheme of which has been published, aims to shorten the length of proceedings by ensuring that the jury is not empanelled until all pre-trial legal issues have been resolved. This should greatly assist in reducing the amount of time jurors are required to make themselves available for such trials and reduce the risk of a number of jurors having to drop out of the jury for various reasons.

There is also a need to increase the use of technology to speed up the Court process. Issues such as the electronic transmission of warrants will assist in reducing the time taken for the manual process to run its course. In addition, there is scope to use video-link hearings more frequently to eliminate delays in waiting for evidence to be provided. Both issues are included in the Criminal Procedure Bill.

#### **2.5 Conclusions**

Having considered the issues related to organisational and procedural reforms in the area of corporate, economic and regulatory crime, Government has identified a number of actions for implementation. They are to:

- Establish a new independent Agency responsible for company law enforcement that it is better equipped to investigate increasingly complex breaches of company law;
- Pilot a Joint Agency Task Force approach as part of a wider review of anti-corruption and anti-fraud structures and procedures in criminal justice enforcement; and
- Publish and enact the Criminal Procedure Bill.

Details of each action are now outlined.

**Establish a new independent Agency that is better equipped to investigate increasingly complex breaches of company law**

The Department of Business, Enterprise and Innovation will:

- Develop legislative framework underpinning the new Agency;
- Liaise with key stakeholders to ensure best international practice is followed in establishing the Agency;
- Engage with the Department of Justice and Equality and An Garda Síochána (AGS) in relation to the role of AGS in assisting the new Agency carry out its statutory functions.

<b>Action Point No.</b>	<b>Action Point</b>	<b>Timeline</b>	<b>Relevant Bodies</b>	<b>Lead/Owner</b>
1	Develop the legislative framework following appropriate consultation with stakeholders	Q1 2018	Department of Business, Enterprise and Innovation, Department of Justice and Equality, An Garda Síochána, OECD, Department of Public Expenditure and Reform.	Department of Business, Enterprise and Innovation
2	Publish General Scheme of Bill	Q2 2018	Department of Business, Enterprise and Innovation	Department of Business, Enterprise and Innovation
3	Pre-legislative scrutiny	Q3 2018	Department of Business, Enterprise and Innovation, Oireachtas	Department of Business, Enterprise and Innovation
4	Publish Bill	Q4 2018	Department of Business, Enterprise and Innovation, Office of the Attorney General	Department of Business, Enterprise and Innovation
5	Enact Bill	Q2 2019	Department of Business, Enterprise and Innovation, Oireachtas	Department of Business, Enterprise and Innovation

## Review and strengthen anti-corruption and anti-fraud structures in criminal justice enforcement

A review of anti-corruption and anti-fraud structures and procedures will be led by the Department of Justice and Equality to ensure that all state bodies with a role in the prevention, detection, investigation and prosecution of fraud and corruption are working effectively together. As part of this review, a Joint Agency Task Force will be established on a pilot basis to examine a discrete area of criminality, namely payment fraud (including invoice redirection fraud and credit card fraud) which is increasingly sophisticated and prevalent. The prima facie advantage of a Joint Agency Task Force to examine a particular area is that it allows tailored expertise to be drawn on depending on the aspects of criminality being targeted. In this case, the agencies involved in the Garda-led Task Force are likely to include the Central Bank and industry representatives. The Task Force will operate for six months and the findings from this exercise will feed into the overall review of anti-corruption and anti-fraud structures and procedures spearheaded by the Department of Justice and Equality.

Action Point No.	Action Point	Timeline	Relevant Bodies	Lead/Owner
6	Review anti-corruption and anti-fraud structures.	Q2 2018	Department of Justice and Equality, Garda National Economic Crime Bureau, Department of Finance, Department of Public Expenditure and Reform, Office of the Revenue Commissioners, Office of the Director of Corporate Enforcement.	Department of Justice and Equality
7	Establish a Garda-led Joint Agency Task Force on a pilot basis as part of the overall review of structures & procedures	Q2 2018	An Garda Síochána, the Central Bank, industry representatives and any other relevant bodies.	Department of Justice and Equality

## Enact Criminal Procedure Bill

In order to reduce the timeframe and minimise delays associated with “white collar crime” trials, the Minister for Justice and Equality will publish and enact the Criminal Procedure Bill in order to provide for:

- preliminary trial hearings before a jury is empanelled in order to shorten trial times;
- electronic transmission of warrants; and
- more efficient and widespread use of video-link hearings.



Action Point No.	Action Point	Timeline	Relevant Bodies	Lead/Owner
8	Publish Criminal Procedure Bill	Q1 2018	Department of Justice and Equality, Office of the Attorney General'	Department of Justice and Equality
9	Enact Criminal Procedure Bill	Q4 2018	Department of Justice and Equality, Office of the Attorney General, Oireachtas	Department of Justice and Equality

## Section 3 Corporate Governance

Corporate governance failings are not regulatory crimes, although poor management and corporate governance practices can facilitate criminal wrongdoing. This is a lesson that has been learned across the globe over the past decade in the wake of the international financial crisis. A strong corporate governance framework can provide the appropriate checks and balances to facilitate oversight from directors, shareholders and other stakeholders (e.g. auditors, authorities and the general public etc.). As a result, the focus on corporate governance has been enhanced both internationally and domestically. Corporate governance standards place responsibilities on key personnel to ensure companies are run in an accountable and legally compliant manner. Failure to adhere to those responsibilities has clear legal ramifications.

This section outlines important reforms undertaken in Ireland since the financial crisis to address the corporate governance shortcomings in Irish business. While much reform has been implemented, continuous reviews of standards and legislation are carried out by the authorities to examine where incremental improvements can be made. This practice of ongoing review has informed the actions that will further strengthen corporate governance in Ireland. While some actions apply to all companies, there is a particular focus on the financial sector reflecting the potential impact of any corporate misdemeanours on the wider economy.

### 3.1 Companies Act 2014

The Companies Act 2014 is the largest piece of legislation ever introduced in the history of the State. It deals extensively with Corporate Governance which is relevant to all companies, listed or not. For the first time, directors' duties have been codified which include the obligation to act with care, skill and diligence. This makes the law more accessible and comprehensible for directors. All companies, regardless of size, are required to comply with the extensive provisions of the Companies Act 2014. Alongside company law, companies must comply with other legal requirements such as the treatment of employees and creditors, disclosure to Revenue and the protection of the environment. Taken together, these regulations make up a wide ranging legal framework for the conduct of business. However, corporate governance requirements are more onerous for larger companies in line with Better Regulation and Think Small First principles. This is consistent with international best practice.

The main corporate governance enhancements contained in the Companies Act 2014 include:

- Where a company's constitution is silent on an issue, the provisions in the Act apply by default. Many of the previous provisions that were set out in a company's articles of association now apply as requirements of law. This reduces the need to have detailed provisions set out in companies' constitutions of the type previously required to be.
- Directors' common law fiduciary duties have been codified in the Act. These exist alongside the many existing statutory duties of directors which continue to apply.
- Directors of (i) all PLCs; and (ii) certain large private companies which reach prescribed thresholds must prepare a statement of compliance with company and tax law to be

included in the directors' report and to ensure that the company adopts appropriate compliance measures.

- Company directors are required to ensure that the company secretary has either the skills or the resources necessary to discharge his or her statutory and other legal duties.

Government is committed to ensuring that the Companies Act 2014 continues to deliver a robust yet competitive corporate regulatory framework for business in Ireland. Consequently, the provisions of the Companies Act 2014 are under continuous review. A Companies (Statutory Audits) Bill, with an ambition to ensure a comprehensive regulatory framework for statutory audit, is due for publication later this year. Also, preliminary work has commenced to introduce amendments supporting enhanced shareholder engagement in companies.

### **3.2 Company Law Review Group**

The Company Law Review Group (CLRG) is a group provided for under the Companies Act 2014 to advise on company law in Ireland. It has representation from a broad range of representative stakeholders. This type of structured stakeholder engagement is in line with best practice in terms of Better Regulation and ensuring legislation is fit for purpose.

The Company Law Review Group Subcommittee on Corporate Governance is actively reviewing the operation of the Corporate Governance provisions of the Companies Act 2014 as well as submissions received by the Department of Business, Enterprise and Innovation and a variety of relevant bodies. It is preparing a suite of recommendations, for consideration by the Minister, intended to amend and further enhance the Corporate Governance provisions of the Act.

### **3.3 Corporate Governance Codes in the regulated market**

In relation to Corporate Governance in companies operating in the regulated markets, Ireland has adopted the UK's Corporate Governance Code (formerly known as the Combined Code). It sets standards of good practice in relation to board leadership and effectiveness, remuneration, accountability and relations with shareholders. The enforcement of the Corporate Governance Code is a matter for the Irish Stock Exchange (ISE). The Listing Rules of the ISE require every company listed on the Main Securities Market to state in its annual report how the principles of the UK Corporate Governance Code have been applied and whether the company has complied with all relevant provisions. Where a company has not complied with all relevant provisions of the Code, it is required to set out the nature, extent and reasons for non-compliance.

The Code is not a rigid set of rules, rather it consists of principles (main and supporting) followed by provisions designed to give effect to those principles. A company may decide not to comply with a particular provision, in which case it is obliged to explain why and what alternative has been adopted to adhere to the overriding principle. This is referred to as the "comply or explain" approach.

This approach is designed to provide flexibility to companies, and to recognise that an alternative to following a provision may be justified in particular circumstances if good governance can be

achieved by other means. There is no one standard governance model that is appropriate to all types and sizes of companies, and the Code allows for those differences.

The preference to date has been to maintain this approach, whereby the law obliges companies to comply with corporate governance standards, but leaves the detail of those standards to be fleshed out in codes of conduct. The benefits of using a code of conduct as the reference point in the law include flexibility and efficiency. For example, a code can be updated and amended in a more efficient fashion than primary legislation, so it can react to developments in a more timely manner.

### 3.4 Central Bank Codes

The Central Bank of Ireland (CBI) Corporate Governance Code for Credit Institutions was introduced in 2010. The latest version of the CBI Code came into effect on 11 January 2016 (there are now separate Codes for Credit Institutions and Insurance Undertakings). The CBI Code sets out minimum requirements on how banks and insurance companies in Ireland should organise the governance of their institutions. The requirements are introduced as conditions to which credit institutions are subject pursuant to Section 10 of the Central Bank Act 1971, Section 16 of the Asset Covered Securities Act 2001, or Section 17 of the Building Societies Act 1989.

The purpose of the rules is to ensure that robust governance arrangements are in place so that appropriate oversight exists. The CBI Code adopts a two tier approach by imposing minimum core standards upon the boards of banks in general, with additional requirements for firms that the Central Bank designates as High Impact Institutions. The CBI Code requirements include:

- Boards of High Impact Institutions must have a minimum of seven directors;
- Requirements on the role and number of independent non-executive directors;
- Criteria for director independence and consideration of conflicts of interest;
- Limits on the number of directorships which directors may hold to ensure they can comply with the expected demands of board membership of a credit institution;
- Clear separation of the roles of Chairman and CEO;
- A prohibition on an individual who has been a CEO, executive director or senior manager during the previous five years from becoming Chairman of that institution;
- The requirement to appoint a Chief Risk Officer;
- A requirement that boards set the risk appetite for the institution and monitor adherence to this on an ongoing basis; and
- Minimum requirements for board committees including audit and risk committees.

The Central Bank also requires each credit institution to submit an annual compliance statement as set out at Section 26 of the Code, in accordance with any guidelines issued by the Bank, specifying whether the credit institution has complied with the requirements. The requirements are imposed in addition to any other corporate governance obligations and standards to which a credit institution is subject such as those contained in the Companies Act 2014.

A contravention of the Requirements may be liable to the Central Bank using any of its regulatory powers, including, but not limited to, any or all of the following:

- The imposition of an administrative sanction under Part IIIC of the Central Bank Act 1942;
- The prosecution of an offence;
- The refusal to appoint a proposed director to any pre- approval controlled function where prescribed by the Central Bank pursuant to Part 3 of the Central Bank Reform Act 2010; and/or
- The suspension, removal or prohibition of an individual from carrying out a controlled function where prescribed by the Central Bank pursuant to Part 3 of the Central Bank Reform Act 2010.

### 3.5 Conclusions

Section 3 has provided an overview of the extensive measures in place, many of which have been introduced since the financial crisis, related to corporate governance. For over 200,000 companies in Ireland, these have most recently been extensively updated through the Companies Act 2014. The State recognises that this is an area that requires regular review to ensure corporate governance requirements reflect international best practice.

In light of this commitment to keep corporate governance requirements under review, the following measures have been identified:

- Examine the Company Law Review Group Report on Corporate Governance and bring forward proposals, including for legislative change, as appropriate;
- Publish a progress report on the implementation of the recommendations of the Report of the Joint Committee of Inquiry into the Banking Crisis, which includes corporate governance measures;
- Transpose the Shareholders Rights Directive; and
- Enact the Companies (Statutory Audits) Bill 2017.

Details of each action are now outlined.



**Examine the Company Law Review Group Report on Corporate Governance and bring forward proposals, including for legislative change, as appropriate**

The Company Law Review Group subcommittee on Corporate Governance is currently reviewing the operation of the Corporate Governance provisions of the Companies Act 2014 as well as submissions received by the Department of Business, Enterprise and Innovation and a variety of relevant bodies. It is preparing a suite of recommendations intended to amend and further enhance the Corporate Governance provisions of the Act.

<b>Action Point No.</b>	<b>Action Point</b>	<b>Timeline</b>	<b>Relevant Bodies</b>	<b>Lead/Owner</b>
<b>10</b>	CLRG to publish its Report on Corporate Governance	Q4 2017	Department of Business, Enterprise and Innovation; Company Law Review Group, Office of the Attorney General	Department of Business, Enterprise and Innovation
<b>11</b>	DBEI to consider the CLRG Report and publish General Scheme of Bill as appropriate	Q2 2018		

**Publish a progress report on the implementation of the recommendations of the Report of the Joint Committee of Inquiry into the Banking Crisis, which includes corporate governance measures**

The Department of Finance is preparing a progress report on the recommendations of the Report of the Joint Committee of Inquiry into the Banking Crisis. This report focuses on both the specific recommendations of the Joint Committee but also the broader findings and recommendations of the Banking Inquiry and other inquiries into the Financial Crisis.

The Department has received responses from all Government Departments and State Bodies that have responsibility for recommendations within the Joint Committees report. These responses are being prepared as part of an overall progress report and it is expected that this progress report will be published by end Q4 2017. The Progress Report sets out the actions already taken to date to address recommendations, further action being taken and necessary follow up actions.

<b>Action Point No.</b>	<b>Action Point</b>	<b>Timeline</b>	<b>Relevant Bodies</b>	<b>Lead/Owner</b>
<b>12</b>	Publish Progress Report on the implementation of the recommendations of the Report of the Joint Committee of Inquiry into the Banking Crisis	Q4 2017	Department of Finance	Department of Finance
<b>13</b>	Monitor the implementation of further recommendations from the Report of the Joint Committee of Inquiry into the Banking Crisis	Ongoing		

## Transpose the Shareholders Rights Directive

The Revised Shareholders' Rights Directive was published in the Official Journal in June 2017. The Directive, which must be transposed by June 2019, will encourage transparent and active engagement by shareholders of listed companies by reviewing the current Shareholders' Rights Directive (2007/36/EC).

The financial crisis revealed that shareholders in many cases supported managers' excessive short-term risk taking. The revised directive is intended to redress this situation and contribute to the sustainability of companies, which will result in growth and job creation.

The new Directive establishes specific requirements in order to encourage shareholder long-term engagement and increase transparency. These requirements apply to:

- remuneration of directors;
- identification of shareholders;
- facilitation of the exercise of shareholders' rights;
- transmission of information;
- transparency for institutional investors, asset managers and proxy advisors;
- related party transactions.

The Department of Business, Enterprise and Innovation intends to hold a public consultation in relation to the transposition of the Directive in early 2018.

Action Point No.	Action Point	Timeline	Relevant Bodies	Lead/Owner
14	Initiate Public Consultation seeking views from stakeholders to inform transposition of the Directive	Q1 2018	Department of Business, Enterprise and Innovation	Department of Business, Enterprise and Innovation
15	Transpose Directive	Q2 2019	Department of Business, Enterprise and Innovation, Office of the Attorney General	

## Enact the Companies (Statutory Audits) Bill 2017

The EU Directive and EU Regulation on audit update existing EU law on statutory audits in three main areas. Those are:

- The framework for public oversight;
- The obligations on statutory auditors to be independent when auditing the financial statements of their clients; and
- The obligations on credit institutions, insurers, financial companies and listed companies with respect to the appointment of and interaction with their auditors.

The EU Audit Directive covers all audits that are required by EU and national law (referred to as "statutory audits"). The EU Audit Regulation supplements the Directive by adding more stringent requirements for the audits of businesses that are particularly important to the economy. These businesses are referred to as "public interest entities" and include banks, other financial and credit institutions, insurers, and public companies listed on the main stock exchange market. These more stringent requirements include the obligation to change auditor every so often (so-called "auditor rotation"), new obligations for audit committees within the public interest entities, additional reporting by the auditor, and prohibitions on the auditor providing certain non-audit services to their client. The 'Statutory Audits Regulations' (S.I. 312 of 2016) gave effect to these new rules in June 2016.

The Companies (Statutory Audits) Bill 2017 exercises options not available in secondary legislation which will enhance the system of oversight of audit in Ireland and audit quality. It elevates the provisions of S.I. 312 of 2016 into primary legislation to provide a single, comprehensive framework for statutory audit in the Companies Act 2014. It gives the Irish Auditing and Accounting Supervisory Authority (IAASA), as the competent authority with ultimate responsibility for oversight of statutory auditors, the appropriate powers to ensure effective monitoring and enforcement of the new requirements.

Action Point No.	Action Point	Timeline	Relevant Bodies	Lead/Owner
<b>16</b>	Publish Companies (Statutory Audits) Bill 2017	Q4 2017	Department of Business, Enterprise and Innovation, Office of the Attorney General, Oireachtas	Department of Business, Enterprise and Innovation
<b>17</b>	Enact Companies (Statutory Audits) Bill 2017	Q2 2018	Department of Business, Enterprise and Innovation, Office of the Attorney General, Oireachtas	Department of Business, Enterprise and Innovation

## **Section 4      Enhancing the Powers of the Authorities to Identify and Combat Economic and Regulatory Offences in the Financial Sector**

It is crucial that the relevant authorities have the power and capacity to identify and prevent the types of activities which constitute economic and regulatory offences in the financial sector. From time to time, developments both in Ireland and abroad may impact upon the mandates of the Irish authorities in this regard. Consequently, they may seek additional powers or resources in order to continue to effectively carry out their work.

This section outlines the measures already undertaken in Ireland to ensure the relevant authorities have the necessary capabilities to recognise and prevent economic and regulatory offences in the financial sector. As such offences evolve, there is a need for continuous reviews of standards and legislation to ensure they remain appropriate, effective, and in line with international best practice. This ongoing review has informed the measures that will further enhance the powers of the authorities to identify and combat economic and regulatory offences in the financial sector.

### **4.1      Central Bank (Reform) Act 2010**

The Central Bank Reform Act 2010 abolished the Irish Financial Services Regulatory Authority (the separate financial regulator function) and created a single fully-integrated Central Bank of Ireland with a unitary board – the Central Bank Commission – chaired by the Governor of the Central Bank. The unitary Central Bank structure gives the Commission members a more complete remit over prudential regulation and financial stability issues. The 2010 Act specifically provides that the Commission shall ensure that the Bank’s central banking functions and financial regulation functions are integrated and coordinated. The Act further provides that one of the objectives of the Central Bank is the stability of the financial system overall.

The 2010 Act enhanced accountability and oversight mechanisms through a number of measures including:

- A specific focus by the Commission on regulatory performance;
- Annual Performance Statements on regulatory performance prepared by the Bank, presented to the Minister for Finance and laid before the Houses of the Oireachtas;
- A Strategy Statement which is to be prepared at least every three years;
- International peer reviews of regulatory performance prepared every four years with the report of same forming part of the Performance Statement in the relevant year;
- A committee of the Oireachtas may call the Governor and/or the Deputy Governors to be examined on the Performance Statement.

## 4.2 Central Bank (Supervision & Enforcement) Act 2013

The Central Bank (Supervision and Enforcement) Act 2013 overhauled the Central Banks powers across a wide range of areas and throughout the regulatory life cycle of firms.

The Central Bank acquired extensive powers to make regulations including in relation to areas identified as weak points in the post crisis analysis such as risk management, consumer protection, audit processes and lending, including lending to ‘restricted persons’ such as those who work within banks or their family members.

The Central Bank acquired extensive new information gathering and authorised officer investigation powers, pulling together disparate and inconsistent statutes into one clear and focussed set of powers. Crucially these powers are available to allow the Central Bank to go beyond the regulated entity into related undertakings so that they can get a full picture of the wider family of companies to which a regulated entity belongs. This combats attempts by firms to circumvent regulation using labyrinthine company structures.

The Central Bank was also given the powers to require the creation of information, including analysis, stress tests and forecasts. To overcome concerns about receiving biased or imbalanced information, the Central Bank now has the power to require a firm to hire an independent third party (approved by the Central Bank) to carry out objective analysis – the cost of this is borne by the regulated entity. The Act also provides a new mechanism – based on company law – to deal with claims of legal privilege and to ensure that documents cannot be withheld on the basis of spurious claims of privilege.

The 2013 Act sets out the power of the Central Bank to issue directions to regulated entities and their related undertakings to address emerging problems, including where the entity has become or is likely to become unable to meet its obligations to its creditors or its customers, or where it is not maintaining or is unlikely to be in a position to maintain adequate capital or other financial resources. In other words, the Central Bank does not have to wait until a firm has committed a contravention before acting: it can intervene where there are emerging risks that need to be headed off.

A direction, which is enforceable in the High Court, can require capital raising, the suspension of business and modification to systems and controls, among other things.

The Act also provides that if, in the opinion of the Bank, a person has engaged, is engaging or is about to engage in a contravention the Bank may apply to the Court for an order restraining the person from engaging in the conduct. This further reinforces the ability of the Central Bank to act on emerging problems in a timely way.

Furthermore, the 2013 Act introduced a number of provisions to allow the Central Bank to follow-up on serious problems. This includes new customer redress powers to address problems that are widespread or regular and which result in losses to consumers, such as mis-selling or overcharging. A further change means that where customers suffer loss through a breach of financial services legislation, they may bring an action for damages. A new restitution provision provides a Court process to deal with situations where a person has been unjustly enriched or others have suffered losses arising from a prescribed contravention.



### 4.3 Market Abuse Framework

The Market Abuse Directive (MAD) forms part of the European regulatory reform agenda for financial services, aimed at ensuring greater transparency and market integrity. MAD strengthens the legal framework underpinning the function of detecting, sanctioning and deterring market abuse. It extends its scope to apply to new markets, new trading platforms and new behaviours and to cover a broader range of financial instruments. It contains prohibitions for insider dealing, market manipulation and unlawful disclosure of inside information and provisions to prevent and detect these.

The 2014 Market Abuse Regulation (MAR) updated and strengthened the 2003 MAD framework by extending its scope to new markets and trading platforms and by introducing new requirements. MAR introduces a number of changes including:

- A broadening of the scope of legislation to include trading platforms, such as Multilateral Trading Facilities (MTFs), and Over the Counter (OTC) trades, including in derivatives;
- MAR also covers trading on other financial instruments outside of those markets, whose price is dependent on the price of a financial instrument traded on a prescribed regulated market, MTF or OTF (e.g. contracts for difference and credit default swaps);
- Additional notification requirements in relation to suspicious activity, delay in the disclosure of inside information, managers' transactions; and
- Enhanced requirements regarding the preparation and maintenance of insider lists and the handling of inside information.

Persons falling within the scope of the Market Abuse Rules are at all times subject to the powers granted to the Central Bank under Part 4 of the 2016 Regulations (*powers of the bank*), the enforcement provisions in Part 5 of the 2016 Regulations (*administrative sanctions*), and Chapter 2 Part 23 of the Companies Act 2014 (*market abuse*) and in accordance with Section 1307(6) of the Companies Act 2014 (*disclosure on letters and order forms*) administrative sanctions may be applied in relation to a contravention of the MAR.

Furthermore, summary proceedings may be brought by the Central Bank but in the event of serious cases of market abuse, these are taken by the Gardaí and the DPP.

Under Section 1368 of the Companies Act 2014, a person who is found guilty of an offence created by Irish market abuse law may be liable to a fine up to €10,000,000, or imprisonment of up to 10 years or both.

### 4.4 Revenue Commissioners

The Revenue Commissioners are responsive to the evolution of tax evasion and to new tax issues coming to the fore, and where necessary seek additional powers and resources. The "Panama Papers" while containing information with very limited connection to Ireland, nonetheless were a reminder that offshore evasion has not gone away and Revenue has been active both nationally and internationally in confronting and challenging such evasion. Whenever any such information

becomes available, Revenue examines this information to decide whether Irish tax has been evaded or avoided and whether to challenge the arrangements.

Following the publication of the Panama Papers, and taking account also of developments in the field of Automatic Exchange of Information, the Finance Act 2016 introduced a legislative change to prevent taxpayers who use offshore schemes from availing of reduced penalties under the voluntary disclosure regime.

The number of disclosures made before the May 2017 deadline exceeded 2,700, with a value of more than €79 million. The disclosures related to a range of offshore matters, including foreign sources of employment-related income, foreign pensions, income from overseas property, offshore bank accounts and trusts and funds.

Over the course of 2016, Revenue settled 40 tax avoidance cases with a yield of €10 million (including interest and penalties). Of these 40 cases:

- 3 related to cases challenged under the General Anti-Avoidance Rule (known as the "GAAR") which resulted in settlements totalling nearly €4 million;
- 21 related to Targeted Anti-Avoidance Rules (known as "TAARs") with settlements amounting to nearly €2.5 million; and
- 16 cases involved tax avoidance that was challenged under other tax legislation with these cases yielding nearly €3.5 million.

Revenue seek to maximise a culture of voluntary compliance amongst taxpayers and continue to commit significant resources to tackling non-compliance in all its forms. Revenue take specific targeted action to combat non-compliance, for instance, shadow economy activity. Such actions are aimed at those who are carrying on business activity, but are not registered for tax and duties, those who make incorrect tax returns, and/or those who are employing staff but failing to register their employment with Revenue or failing to operate payroll taxes and social contributions. Many operations are carried out on a multi-agency basis with the Department of Employment Affairs and Social Protection (DEASP), the Workplace Relations Commission (WRC) and An Garda Síochána. During 2016, significant compliance activity such as checks at seasonal fairs, sports and music events, markets, road checkpoints and construction sites were carried out. In cooperation with DEASP and the WRC, Revenue will continue to pursue employers engaged in misclassification of employees to ensure that they do not enjoy a commercial advantage over compliant employers who provide their staff with appropriate employment terms and conditions.

The overall yield from audit and compliance intervention activity in 2016 was €555.6 million. 6,173 audits were completed yielding €247.9 million and the yield from other compliance interventions was €307.7 million. There were 341 tax defaulters published in Iris Oifigiúil in 2016.

#### **4.5 Central Bank Administrative Sanctions Procedure**

Part IIIC of the Central Bank Act 1942, as amended, provides the Central Bank with the power to administer sanctions in respect of the commission of prescribed contravention(s) by regulated

financial service providers and by persons presently or formerly concerned in their management who have participated in the prescribed contraventions.

A 'prescribed contravention' includes any breach of:

- a provision of a designated enactment, including any instrument made thereunder, or a designated statutory instrument;
- a code made, or a direction given, under such a provision;
- any condition or requirement imposed under a provision of a designated enactment, designated statutory instrument, code or direction; or
- any obligation imposed on any person by Part IIIC of the Act or imposed by the Central Bank pursuant to a power exercised under Part IIIC of the Act.

Concerns that a prescribed contravention is being committed or may have occurred will arise in the normal course of work undertaken by the Central Bank as a result of an on-site inspection at the firm, or a themed inspection across a particular sector.

Where a prescribed contravention is suspected to have been committed, the Central Bank may deal with the issue in a number of ways including:

- Deciding to take no further action;
- Issue a Supervisory Warning;
- Resolve the matter by taking Supervisory Action;
- Agree a Settlement; or
- Refer the case to Inquiry for determination and sanction.

While the Central Bank is under no obligation to settle a matter under investigation, the fact is that Settlement Agreements have become the norm because it is in the public interest to settle as early as possible. However, before it enters into a Settlement Agreement, the Central Bank must be satisfied that the basis for settlement is appropriate taking into account all relevant facts including whether all concerns have been addressed to the Central Bank's satisfaction. The level of cooperation from the entity in question during the investigation is also relevant to settlement. Otherwise, the Central Bank may refer the matter to an Inquiry pursuant to Part IIIC of the Act. The purpose of the Inquiry is to decide if a prescribed contravention is being or has been committed and to determine the appropriate sanctions.

The Central Bank can impose a maximum monetary penalty of €10,000,000 or 10% of turnover where the regulated financial service provider is a body corporate or an unincorporated body. In the case of a natural person the Bank can impose a penalty not exceeding €1,000,000. In 2016, the Central Bank imposed fines totalling €12.05 million, the largest figure for fines imposed by the Bank in a single year to date. A fine of €4.5 million was imposed on Springboard Mortgages Limited for serious failings in its obligations to tracker mortgage customers.

#### **4.6 Fitness and Probity Regime**

In 2011, the new Fitness and Probity regime was rolled out by the Central Bank in accordance with the provisions of the Central Bank Reform Act 2010. The regime provides for new powers to be exercised by the Central Bank to ensure the fitness and probity of nominees to key positions within financial service providers and of key office-holders within those providers.

The Fitness and Probity Regime was introduced by the Central Bank under the Central Bank Reform Act 2010. The Fitness and Probity Regime applies to persons in senior positions (referred to in the legislation as Controlled Functions and Pre-Approval Controlled Functions) within Regulated Financial Service Providers (“RFSPs”).

RFSPs which are categorised as ‘Significant Institutions’ and ‘Less Significant Institutions’ by the European Central Bank are subject to the fitness and probity regime introduced by the Single Supervisory Mechanism (“SSM”) Regulation and the SSM Framework Regulation.

The core function of the Fitness and Probity Regime is to ensure that persons in senior positions within RFSPs are competent and capable, honest, ethical and of integrity and also financially sound. The Fitness and Probity Regime’s primary purpose is to ensure that persons performing those functions are ‘fit and proper’ to do so. If a person is not compliant with the Fitness and Probity Standards (for example), this may result in the Central Bank taking action to investigate that individual, and ultimately prohibit the individual where they are not ‘fit and proper’ to perform the relevant functions.

#### **4.7 Protections for Whistleblowers**

Protected disclosures and whistleblowing play an important role in identifying the types of activities that constitute economic and regulatory offences in the financial sector. The Protected Disclosures Act 2014 became operational on 15<sup>th</sup> July 2014. The Act is intended to provide a robust statutory framework within which workers can raise concerns regarding potential wrongdoing that has come to their attention in the workplace in the knowledge that they can avail of significant employment and other protections if they are penalised by their employer or suffer any detriment for doing so. The legislation closely reflects international best practice recommendations on whistleblower protection made by the G20/OECD, the UN, and the Council of Europe, and draws on recent developments in legislative models adopted or being put in place in other jurisdictions. A wide definition of wrongdoings is included in the Act and the safeguards provided in the legislation are extended to a wide definition of ‘workers’ which includes in addition to employees, contractors, agency staff and trainees.

Whistleblowers will benefit from civil immunity from actions for damages and a qualified privilege under defamation law. Making a protected disclosure or reasonably believing a disclosure is protected is a defence to any offence prohibiting or restricting the disclosure of information. The legislation pays particular attention to seeking as much as possible to protect the identity of a whistleblower – the disclosure rather than the whistleblower should be the focus of attention. The Act provides in any proceedings that a disclosure is assumed to be a protected disclosure unless the contrary can be proved. The legislation provides a number of distinct disclosure channels for potential whistleblowers. The protections remain available if the information disclosed on examination does not reveal wrongdoing. Deliberate false reporting will not meet the reasonable belief test and is not protected. Special arrangements are put in place for disclosures relating to law enforcement matters and to disclosures that could adversely affect Ireland’s security, defence or international relations.

In line with Ireland’s commitment to continuous review of standards and legislation, an evaluation of the Protected Disclosures Act is now underway. This review was provided for in statute, under section 2 of the Act, which requires that the Minister for Public Expenditure and Reform review the operation of the Act and report to each House of the Oireachtas the findings and the conclusions drawn from the findings. As the Act was enacted on 8<sup>th</sup> July 2014, the Report to the Houses of the Oireachtas must be made by 8<sup>th</sup> July 2018. The public consultation phase of the review commenced on 17<sup>th</sup> August 2017, with a closing date for submissions of Tuesday, 10<sup>th</sup> October 2017. Submissions could relate to any aspect of the operation of the Protected Disclosures Act, but the consultation seeks to inform in particular, whether the legislation has been effective in line with its objectives; and how it might be improved.

In the realm of financial services, individuals are entitled to the protections of the Protected Disclosures Act, as well as being able to disclose in confidence to the Central Bank an alleged offence, breach of financial services legislation or concealment or destruction of evidence of such, under the Central Bank (Supervision & Enforcement) Act 2013, by email, telephone or post. Individuals may also make disclosures under Section 7 of the Protected Disclosures Act 2014 to “any of the persons falling within the meaning of the term ‘appropriate person’ in section 37 (1) of the Central Bank (Supervision and Enforcement) Act 2013” in respect of “all matters relating to contraventions of provisions of financial services legislation as defined in the Central Bank (Supervision and Enforcement) Act 2013” (SI 339/2014). Furthermore, under the Fitness and Probity Regime, persons holding Pre-approval Control Functions (PCF) in regulated firms who need to make a disclosure of an alleged offence, breach of financial services legislation or concealment or destruction of evidence of such in their firm also have specific channels within the Central Bank for doing so.

The Revenue Commissioners also operate a number of confidential disclosure channels, for example the online Tax Evasion Report Form and the Illegal Cigarettes Hotline, as well as accepting reports of tax evasion and/or shadow economy activity by way of letter, email or telephone.

#### **4.8 Conclusions**

Section 4 has provided an extensive overview of powers available to State authorities in promoting compliance and enforcing breaches of the law in the financial sector. These powers have been strengthened considerably in recent years following the financial crisis and events such as the ‘Panama Papers’ highlight that effective oversight to combat issues such as tax evasion is critical.

Consistent with the Government commitment in other areas to deter corporate, economic and regulatory crime, a number of measures have been identified to further bolster the powers available to the authorities.

These measures are to:

- Examine whether any additional powers and resources are required to combat tax evasion and avoidance as part of Budget 2018 and its associated Finance Bill;
- Implement MiFID II; and

- Implement the automatic exchange of financial account information under the global Common Reporting Standard (CRS).

Details of these measures are now outlined.

**Examine whether any additional powers and resources are required to combat tax evasion and avoidance as part of Budget 2018 and its associated Finance Bill**

Action Point No.	Action Point	Timeline	Relevant Bodies	Lead/Owner
<b>18</b>	Revenue, in conjunction with the Department of Finance, will continue to examine whether any additional powers or measures are currently required. Any such measures will then be proposed to the Minister for Finance for inclusion in Finance Bill 2018.	Ongoing	Department of Finance, Revenue Commissioners	Department of Finance

**Implement MiFID II**

Implementing MiFID II will broaden the powers of the Central Bank to remove (members of) the executive board from the management of ["failing"] MiFID companies. MiFID II will also consequently extend the Market Abuse Rules to a wider cross-section of individuals who will become subject to the additional powers of enforcement bodies under the Criminal Sanctions for Market Abuse Directive.

Article 69(2)(u) of MiFID II requires that a competent authority has at least the power to "require the removal of a natural person from the management board of an investment firm or market operator".

This is a supervisory power, and the Central Bank may also invoke this power if they consider the individual to be incompetent but not necessarily guilty of a crime. This power acts as both a deterrent and an enforcement tool against bad corporate governance, and will ultimately contribute to the enhancement of corporate governance in MiFID companies.

Furthermore, the implementation of MiFID II will extend the scope of the existing Market Abuse Rules to a broader spectrum of individuals, who will become subject to the powers of criminal sanctions available to enforcement bodies for contraventions of the rules.

Under MiFID II, Member States have the right to impose criminal penalties in addition to the requirement to impose administrative penalties. A similar Member State discretion was included in MiFID I and was invoked by Ireland. Due to the potentially serious impacts arising from infringements of MiFID, it was considered prudent to continue with the policy under MiFID by providing for the same criminal penalties in respect of the same or similar offences (of MiFID II). Putting in place criminal sanctions for serious infringement of MiFID rules will provide a deterrent effect against any blatant misbehaviour and thus promote orderly markets, market integrity & investor protection.

Action Point No.	Action Point	Timeline	Relevant Bodies	Lead/Owner
19	Implement MiFID II, which broadens the powers of the Central Bank to remove (members of) the executive board from the management of ["failing"] MiFID companies	Q1 2018	Department of Finance, Central Bank of Ireland	Department of Finance
20	Extend the Market Abuse Rules to a wider cross-section of individuals under MiFID II	Q1 2018		
21	MiFID II Bill providing for criminal sanctions for serious infringements of MiFID II/MiFIR	Q1 2018	Department of Finance, Central Bank of Ireland	Department of Finance

### Implement the automatic exchange of financial account information under the global Common Reporting Standard (CRS)

From September 2017, data under the global Common Reporting Standard will be used by the Revenue Commissioners to identify any potential undeclared foreign assets or income, and to uncover potential offshore evasion.

The first automatic exchange of financial account information under the global Common Reporting Standard (CRS) commenced in September 2017 with a number of jurisdictions including Ireland exchanging information including bank and investment account details. The information received will be cross referenced with tax returns to identify any potential undeclared foreign assets or income. Revenue will also use the data as part of its risk assessment methodology in order to highlight potential offshore evasion. Revenue are also fully engaged with the OECD Joint International Taskforce on Shared Intelligence and Cooperation (JITSIC) and will continue to play a full part in agreeing concrete actions that tax administrations can take in response to evidence of tax evasion or avoidance.

Action Point No.	Action Point	Timeline	Relevant Bodies	Lead/Owner
22	Implement the automatic exchange of financial account information under the global Common Reporting Standard (CRS)	Q4 2017	Department of Finance, Revenue Commissioners	Revenue Commissioners



## Section 5 Countering Money Laundering and Corruption

This section details the progress already made and further actions to be undertaken in addressing money laundering, terrorist financing, and corruption.

It should be noted that money laundering is essentially a secondary offence which is dependent on other crimes to generate the proceeds in order for them to be laundered. However, as businesses can be used to facilitate the laundering of criminal proceeds, money laundering can be classified as an economic and regulatory offence in the financial sector. Ireland is subject to ongoing international peer review of its frameworks for combatting money laundering and terrorist financing.

Ireland is committed to developing and maintaining a risk-sensitive Anti-Money Laundering framework and to further deepening and enhancing the collaboration between domestic agencies and authorities to enhance Ireland's ability to respond to evolving risks. A coordinating steering committee, the Anti Money Laundering Counter Terrorist Financing (AML/CFT) Steering Committee (AMLSC), has been established to facilitate the collaboration and coordination between national competent authorities, government departments and law enforcement authorities, to ensure the effective combatting of money laundering.

The AMLSC plays a central role in the development of Ireland's AML/CFT policy and meets on a regular basis. Its objective is to assist Government Departments, Agencies and Competent Authorities to fulfil their mandate with respect to measures to combat money laundering as provided for in the legislation. The AMLSC's members include the Department of Finance (Chair); the Department of Justice and Equality; the Financial Intelligence Unit; the Criminal Assets Bureau; the Revenue Commissioners; the Department of Business, Enterprise and Innovation; the Central Bank of Ireland; and the Office of the Director of Public Prosecutions.

A Private Sector Consultative Forum (PSCF) has been formed to act as an independent consultative forum, coordinated by the participating private sector representatives. Representatives from the private sector include banks; life insurance providers; payment institutions; funds service providers; investment firms; and designated non-financial businesses and professionals (DNFBPs). The role of the PSCF is to allow stakeholders in the private sector to engage with public agencies to support the development of an appropriate legislative and operational environment, discuss the implementation of anti-money laundering measures, develop an understanding of the money laundering threats, vulnerabilities and risks in the Irish economy, and provide feedback to the AMLSC on issues that arise concerning the implementation of the anti-money laundering measures.

### 5.1 The Financial Action Task Force

The Financial Action Task Force (FATF) is a policy-making organisation that leads the international fight against money laundering and terrorist financing. The objectives of the FATF are to set international standards for combating money laundering and terrorist financing and to promote the effective implementation of these standards into the legal, supervisory and regulatory frameworks of its members. Ireland has been a member of the FATF since 1991.

The FATF's standards are embodied in its 40 Recommendations, which were most recently updated in 2012, and deal with money laundering, terrorist financing and targeted financial sanctions for terrorism and proliferation. The FATF regularly monitors the progress of its members in implementing its Recommendations through the Mutual Evaluation process. This process consists of a peer review of each member, which provides a detailed description and analysis of their AML/CFT framework present in their legislative, regulatory and supervisory apparatus.

The latest FATF mutual evaluation review of Ireland's Anti Money Laundering and Countering the Financing of Terrorism framework that has been ongoing over the last year concluded at the FATF Plenary in Valencia in June 2017, with the adoption of Ireland's Mutual Evaluation Report. This report was published by the FATF on the 7th September.

The FATF review is broad in that it covers a diverse range of areas across the public and private sector including:

- understanding of AML/CFT risks;
- supervision of the financial and non-financing sector;
- financial intelligence;
- investigation and prosecution of money laundering and terrorist financing offences;
- transparency and beneficial ownership;
- international financial sanctions; and
- proliferation financing.

The review process involved focused and prolonged engagement between the FATF and several government departments and agencies. The Department of Finance, in its capacity as chair of the AMLSC and head of the Irish delegation to the FATF, led and managed the peer review process. The final outcome was largely dependent on the input of a number of stakeholders from various Departments and agencies involved in AML/CFT, such as the Department of Justice and Equality, An Garda Síochána, the Central Bank of Ireland, the Revenue Commissioners, the Department of Foreign Affairs and Trade, the Criminal Assets Bureau, the Office of the Director of Public Prosecutions, and the Department of Business, Enterprise and Innovation.

Overall, Ireland has achieved a good outcome which would be considered on a par against other EU and non-EU countries recently evaluated. The FATF report acknowledges that Ireland has a sound and substantially effective regime to tackle money laundering. In broad terms, the FATF review has recognised that Ireland has a good understanding of its money laundering and terrorist financing risks, particularly on domestic crime. Inter-agency co-operation is a strong point of the Irish system. Ireland also received a broadly positive review in terms of supervision, specifically in respect of the financial sector. The use by law enforcement bodies of financial intelligence in money laundering and terrorist financing investigations was also acknowledged.

Notwithstanding this, the FATF's report contains a series of recommended actions across the various areas involved in AML/CFT which Ireland will be expected to implement over the next number of years. In very broad terms, there will be an expectation that Ireland carry out more investigations into money laundering offences for the purpose of prosecution rather than focussing on the main offence which has generated the proceeds in the first place. The Department of Finance, in

conjunction with the AMLSC, will prepare an action plan to implement the various recommended actions.

## **5.2 Anti- Money Laundering legislation**

Anti-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. The main provisions in Irish law relating to tackling money laundering were first set out in Section 31 of the Criminal Justice Act 1994 (as amended). 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 3<sup>rd</sup> EU Anti-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 FATF.

On 20 May 2015, the European Parliament adopted the 4<sup>th</sup> EU Anti-Money Laundering 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 account of the latest recommendations of the FATF from 2012. Furthermore, it includes the following aims:

- the provision of a more targeted and focused approach to risk-based supervision;
- the establishment of central registers of beneficial ownership data on corporate and other legal entities and trusts; and
- the strengthening of cross-border co-operation between Member States' Financial Intelligence Units.

Ireland aims to transpose most provisions of the 4th EU Anti-Money Laundering Directive (4AMLD) by enacting the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Bill, although consideration will also be given to the extent to which provisions of the Directive could be transposed by Regulations made under the European Communities Act 1972. The transposition date for 4AMLD was 26 June 2017. The aim is now to finalise the draft legislation in Q4 2017. If primary legislation is required, it would then be subject to Oireachtas timeframes. Of particular note, the legislation will place the Irish Financial Intelligence Unit (FIU) on a statutory basis and provide it with explicit powers to obtain information required in order to carry out its functions with regard to combatting money laundering and terrorist financing. The Bill will also provide for the Irish FIU to exchange information with other FIUs.

It should be noted that 4AMLD is currently being amended at EU level by the 5th EU Anti-Money Laundering Directive (5AMLD) to greater enhance counter terrorist financing and transparency provisions. Ireland is constructively engaging in the EU negotiations.

## **5.3 Beneficial Ownership**

One key aspect of 4AMLD is the establishment of central registers of beneficial ownership information for corporate and other legal entities and trusts. Ireland is committed to implementing

the 4AMLD and FATF recommendations on transparency and beneficial ownership, including the requirement to establish Central Registers of beneficial ownership information for corporate and other legal entities and trusts.

The objective of the beneficial ownership provisions contained in 4AMLD and FATF are to strengthen transparency over who ultimately owns and controls companies and trusts to effectively detect, disrupt and prevent money laundering and terrorist financing.

While the 4AMLD requires Member States to create Central Registers of beneficial ownership information of companies (Article 30) and trusts (Article 31), 4AMLD is currently being amended at EU level in negotiations on a 5<sup>th</sup> Anti-Money Laundering Directive (5AMLD) which, inter alia, is seeking to secure a harmonised approach across the EU as to who can access the Central Registers.

The feasibility of making the Irish Central Registers public and the levels of access will be settled once a determination has been reached at the EU level. In the meantime it has been decided to adopt an incremental approach to establishing these Central Registers in Ireland.

In the case of the Central Register for Beneficial Ownership of Companies and Industrial and Provident Societies, the intention is that the first step will be to establish such a register and make it a requirement for companies to transfer information to it within a prescribed period of time. As part of this initial phase, the intention is that access to this information will be limited to the Gardaí and relevant competent authorities. Once 5AMLD has been settled, access to the central register can be expanded to those who come within the remit of the Directive.

It should be noted that as of 15 November 2016, all companies and legal entities incorporated in Ireland must take all reasonable steps to hold adequate, accurate and current information on their beneficial ownership and keep this information in their own companies' beneficial ownership register. This requirement is set out in law through Statutory Instrument No. 560 of 2016 signed by the Minister for Finance entitled 'European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2016'.

## 5.4 Tackling corruption

### Overall Institutional framework

The development and implementation of anti-corruption policies does not rest with any one body in this jurisdiction. The competence to prevent, detect, investigate and prosecute corruption is spread across a number of agencies with a mandate to tackle corruption. This includes tribunals of inquiry, commissions of investigation, inspectors, the Central Bank of Ireland, the Standards in Public Office Commission (SIPO), local authorities, the Ombudsman, Parliamentary Committees on Members' Interests, the Garda National Economic Crime Bureau, the Criminal Assets Bureau (CAB), the Office of the Director of Corporate Enforcement (ODCE), the Comptroller and Auditor General, the Public Accounts Committee and the Director of Public Prosecutions (*responsible for all criminal prosecutions of the most serious cases*).

Article 6 of the UN Convention requires that each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies that prevent

corruption. The Convention does not mandate the creation or maintenance of a body and recognises that, given the range of responsibilities and functions to be undertaken, it may be that this task is assigned to different existing agencies. Ireland's obligations under Article 6 are consequently addressed by a range of bodies, including those mentioned above.

### **Legal framework**

The Government is strongly committed to ensuring that the necessary domestic measures are in place to effectively combat corruption both nationally and in the context of our international commitments. There is a broad spectrum of legislation in relation to the prevention of corruption including the Prevention of Corruption Acts 1889 to 2010, ethics legislation, political funding legislation, anti-money laundering legislation and the Companies Act 2014. Also, the Programme for Government contains a commitment to enact a new consolidated and reformed anti-corruption law.

The Minister for Justice and Equality will soon publish the Criminal Justice (Corruption Offences) Bill which has been approved by Government. This Bill represents a major consolidation of the law; it will repeal and replace the seven previous Prevention of Corruption Acts and will introduce some important additional offences. The Bill will make renewed provision for the main requirements of a number of international anti-corruption instruments which Ireland has already ratified. These include the OECD Convention on Bribery of Foreign Public Officials, the United Nations Convention against Corruption (UNCAC) and the Council of Europe Criminal Law Convention on Corruption. It will provide for recommendations made in the course of evaluations of Ireland by the various European and International Bodies.

The Bill will clarify and strengthen the law criminalising corruption as well as introducing new offences and some new penalties. It provides for penalties of up to ten years' imprisonment and unlimited fines for persons convicted on indictment for certain corruption offences. Courts are to be given new powers to remove Irish officials, including elected officials, from public office upon conviction on indictment for certain corruption offences. The Bill will implement the Mahon Tribunal recommendations by creating a new offence of making payments knowingly or recklessly to a third party who intends to use them as bribes, and a new offence of using confidential information to obtain an advantage corruptly. The Bill will contain presumptions of corruption where:

- a person with an interest in the functions of a public official makes a payment to the official or a closely connected person;
- a public official fails to declare interests as required by ethics legislation, and
- a public official accepts a gift in breach of ethics codes.

The Bill will also clarify the liability of corporate bodies for corruption offences.

## **5.5 Conclusions**

The levels of international commitment to combatting money laundering and terrorist financing have increased substantially in recent years. This is perhaps best illustrated by the well-advanced negotiations taking place on the 5<sup>th</sup> Anti Money Laundering Directive following the adoption just two years ago of the 4<sup>th</sup> Anti Money Laundering Directive.

Ireland is firmly committed to continuing its efforts to tackle corruption and money laundering.

The measures identified to achieve these objectives are:

- Respond to the recommended actions of the Financial Action Task Force Report on Ireland’s Anti Money Laundering and Countering the Financing of Terrorism framework;
- Transpose the 4th Anti Money Laundering Directive (4AMLD);
- Establish Registers of Beneficial Ownership for Companies, Industrial and Provident Societies (cooperatives), Trusts & Irish Collective Asset-management Vehicles (ICAVs); and
- Publish and enact the Criminal Justice (Corruption Offences) Bill.

Details of the measures are now outlined.

**Respond to the recommended actions of the Financial Action Task Force Report on Ireland’s Anti Anti-Money Laundering and Countering the Financing of Terrorism framework**

The FATF will carry out a follow-up assessment in 5 years’ time. However, in the interim there are three reporting requirements with the first due in October 2018. It will be important for Ireland to make progress on these actions over the coming years.

Action Point No.	Action Point	Timeline	Relevant Bodies	Lead/Owner
23	Respond to the recommended actions of the FATF Report on Ireland’s Anti Money Laundering and Countering the Financing of Terrorism framework	Ongoing	Department of Justice and Equality and the various Departments and agencies involved in AML/CFT	Department of Finance

**Transpose the 4th Anti-Money Laundering Directive (4AMLD)**

The Minister for Justice and Equality intends to transpose most provisions of 4<sup>th</sup> EU Anti-Money Laundering Directive by enacting the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Bill, although consideration will also be given to the extent to which provisions of the Directive could be transposed by Regulations made under the European Communities Act 1972.

Action Point No.	Action Point	Timeline	Relevant Bodies	Lead/Owner
24	Transpose 4th Anti-Money Laundering Directive (4AMLD).	Q1 2018	Department of Justice and Equality, Department of Finance, Office of the Attorney General	Department of Justice and Equality

## Establish Registers of Beneficial Ownership for Companies, Industrial and Provident Societies (cooperatives) & ICAVs

Ireland is committed to implementing the 4AMLD and FATF recommendations on transparency and beneficial ownership. The objective of the beneficial ownership provisions contained in 4AMLD and FATF are to strengthen transparency over who ultimately owns and controls companies and trusts to effectively detect, disrupt and prevent money laundering and terrorist financing.

Action Point No.	Action Point	Timeline	Relevant Bodies	Lead/Owner
25	Establish a central register for beneficial ownership of companies and industrial and provident societies	Q1 2018	Department of Finance, Department of Business, Enterprise and Innovation, the Companies Registration Office, Office of the Attorney General, Revenue Commissioners	Department of Finance
26	Transpose Article 31 4AMLD regarding trusts and similar legal arrangements	Q1 2018		

## Publish and enact the Criminal Justice (Corruption Offences) Bill

In order to improve our effectiveness at combating corruption and to ensure that we meet our international obligations in this area, the Minister for Justice and Equality will publish and enact the Criminal Justice (Corruption Offences) Bill in order to:

- create new offences dealing with ‘trading in influence’, use of confidential information and knowingly or recklessly making a payment that would facilitate a corruption offence;
- create presumptions of corruption; e.g. where a person linked to a public official makes a payment to the official or a close relative, where a public official fails to declare interests as required by ethics legislation, and where a public official accepts a gift in breach of ethics codes;
- provide penalties of up to ten years' imprisonment and unlimited fines for persons convicted on indictment;
- address a number of recommendations made by the Mahon Tribunal by creating new offences of making payments knowingly or recklessly to a third party who intends to use them as bribes, and of using confidential information to obtain an advantage corruptly;
- substantially advance meeting Ireland’s obligations under a number of international anti-corruption instruments.



Action Point No.	Action Point	Timeline	Relevant Bodies	Lead/Owner
27	Publish the Criminal Justice (Corruption Offences) Bill	Q4 2017	Department of Justice and Equality, Office of the Attorney General, Oireachtas	Department of Justice and Equality
28	Enact the Criminal Justice (Corruption Offences) Bill	Q4 2018	Department of Justice and Equality, Office of the Attorney General, Oireachtas	Department of Justice and Equality

## APPENDIX – Table of Actions

Action Point No.	Action Point	Timeline	Relevant Bodies	Lead/Owner
<b>ORGANISATIONAL &amp; PROCEDURAL REFORMS</b>				
<b>Establish a new independent Agency that it is better equipped to investigate increasingly complex breaches of company law</b>				
1	Develop legislative framework following appropriate consultation with stakeholders	Q1 2018	Department of Business, Enterprise and Innovation, Department of Justice and Equality, An Garda Síochána, OECD, Department of Public Expenditure and Reform.	Department of Business, Enterprise and Innovation
2	Publish the General Scheme of Bill	Q2 2018	Department of Business, Enterprise and Innovation	Department of Business, Enterprise and Innovation
3	Pre-legislative scrutiny	Q3 2018	Department of Business, Enterprise and Innovation, Oireachtas	Department of Business, Enterprise and Innovation
4	Publish Bill	Q4 2018	Department of Business, Enterprise and Innovation, Office of the Attorney General	Department of Business, Enterprise and Innovation
5	Enact Bill	Q2 2019	Department of Business, Enterprise and Innovation, Oireachtas	Department of Business, Enterprise and Innovation
<b>Review anti-corruption and anti-fraud structures in criminal justice enforcement</b>				
6	Review anti-corruption and anti-fraud structures.	Q2 2018	Department of Justice and Equality, Garda National Economic Crime Bureau, Department of Finance, Department of Public Expenditure and Reform, Office of the Revenue Commissioners, Office of the Director of Corporate Enforcement.	Department of Justice and Equality

7	Establish a Garda-led Joint Agency Task Force on a pilot basis as part of the overall review of structures & procedures	Q2 2018	An Garda Síochána, the Central Bank, industry representatives and any other relevant bodies.	Department of Justice and Equality
<b>Enact the Criminal Procedure Bill</b>				
8	Publish the Criminal Procedure Bill	Q4 2017	Department of Justice and Equality, Office of the Attorney General, Oireachtas	Department of Justice and Equality
9	Enact Criminal Procedure Bill	Q4 2018	Department of Justice and Equality, Office of the Attorney General, Oireachtas	Department of Justice and Equality
<b>CORPORATE GOVERNANCE</b>				
<b>Examine the Company Law Review Group Report on Corporate Governance and bring forward proposals, including for legislative change, as appropriate</b>				
10	CLRG to publish its Report on Corporate Governance	Q4 2017	Department of Business, Enterprise and Innovation; Company Law Review Group; Office of the Attorney General	Department of Business, Enterprise and Innovation
11	DBEI to consider the CLRG Report and publish General Scheme of Bill as appropriate	Q2 2018		Department of Business, Enterprise and Innovation
<b>Publish a progress report on the implementation of the recommendations of the Report of the Joint Committee of Inquiry into the Banking Crisis, which includes corporate governance measures</b>				
12	Publish Progress Report on the implementation of the recommendations of the Report of the Joint Committee of Inquiry into the Banking Crisis	Q4 2017	Department of Finance	Department of Finance
13	Monitor the implementation of further recommendations from the Report of the Joint Committee of Inquiry into the Banking Crisis	Ongoing	Department of Finance	Department of Finance

<b>Transpose the Shareholders Rights Directive</b>				
<b>14</b>	Initiate Public Consultation seeking views from stakeholders to inform transposition of the Directive	Q1 2018	Department of Business, Enterprise and Innovation	Department of Business, Enterprise and Innovation
<b>15</b>	Transpose Directive	Q2 2019	Department of Business, Enterprise and Innovation, Office of the Attorney General	Department of Business, Enterprise and Innovation
<b>Enact the Companies (Statutory Audits) Bill 2017</b>				
<b>16</b>	Publish the Companies (Statutory Audits) Bill 2017	Q4 2017	Department of Business, Enterprise and Innovation, Office of the Attorney General, Oireachtas	Department of Business, Enterprise and Innovation
<b>17</b>	Enact Companies (Statutory Audits) Bill 2017	Q2 2018	Department of Business, Enterprise and Innovation, Office of the Attorney General, Oireachtas	Department of Business, Enterprise and Innovation
<b>ENHANCING THE POWERS OF THE AUTHORITIES TO IDENTIFY AND COMBAT ECONOMIC AND REGULATORY OFFENCES IN THE FINANCIAL SECTOR</b>				
<b>Examine whether any additional powers and resources are required to combat tax evasion and avoidance as part of Budget 2018 and its associated Finance Bill</b>				
<b>18</b>	Revenue, in conjunction with the Department of Finance, will continue to examine whether any additional powers or measures are currently required. Any such measures will then be proposed to the Minister for Finance for inclusion in Finance Bill 2018.	Ongoing	Department of Finance, Revenue Commissioners	Department of Finance
<b>Implement MIFID II</b>				
<b>19</b>	Implement MiFID II, which broadens the powers of the Central Bank to remove (members of) the executive board from the management of ["failing"] MiFID companies	Q1 2018	Department of Finance, Central Bank of Ireland	Department of Finance
<b>20</b>	Extend the Market Abuse Rules to a wider cross-section of individuals under MiFID II	Q1 2018	Department of Finance, Central Bank of Ireland	Department of Finance

21	MiFID II Bill providing for criminal sanctions for serious infringements of MiFID II/MiFIR	Q1 2018	Department of Finance, Central Bank of Ireland	Department of Finance
<b>Implement the automatic exchange of financial account information under the global Common Reporting Standard (CRS)</b>				
22	Implement the automatic exchange of financial account information under the global Common Reporting Standard (CRS)	Q4 2017	Department of Finance, Revenue Commissioners	Revenue Commissioners
<b>COUNTERING MONEY LAUNDERING AND CORRUPTION</b>				
<b>Respond to the recommended actions of the Financial Action Task Force Report on Ireland's Anti Money Laundering and Countering the Financing of Terrorism framework (due to be published 7th September).</b>				
23	Respond to the recommended actions of the FATF Report on Ireland's Anti Money Laundering and Countering the Financing of Terrorism framework	Ongoing	Department of Justice and Equality and the various Departments and agencies involved in AML/CFT	Department of Finance
<b>Transpose 4th Anti-Money Laundering Directive (4AMLD)</b>				
24	Transpose 4th Anti-Money Laundering Directive (4AMLD)	Q1 2018	Department of Justice and Equality, Department of Finance, Office of the Attorney General	Department of Justice and Equality
<b>Establish Registers of Beneficial Ownership for Companies, Industrial and Provident Societies (cooperatives) &amp; ICAVs</b>				
25	Establish a central register for beneficial ownership of companies and industrial and provident societies	Q1 2018	Department of Finance, Department of Justice and Equality, Department of Business, Enterprise and Innovation, Companies Registration Office, Office of the Attorney General, Revenue Commissioners	Department of Finance
26	Transpose Article 31 4AMLD regarding trusts and similar legal arrangements	Q1 2018	Department of Finance, Department of Justice and Equality, Department of Business, Enterprise and Innovation, Companies Registration Office, Office of the Attorney General, Revenue Commissioners	Department of Finance

<b>Publish and Enact the Criminal Justice (Corruption Offences) Bill</b>				
<b>27</b>	Publish the Criminal Justice (Corruption Offences) Bill	Q4 2017	Department of Justice and Equality, Office of the Attorney General, Oireachtas	Department of Justice and Equality
<b>28</b>	Enact the Criminal Justice (Corruption Offences) Bill	Q4 2018	Department of Justice and Equality, Office of the Attorney General, Oireachtas	Department of Justice and Equality