# Executive Summary

1.     This report provides a summary of the AML/CFT measures in place in Ireland as at the date of the on-site visit from 3-17 November 2016. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Ireland's AML/CFT system, and provides recommendations on how the system could be strengthened.

## *Key Findings*

- Ireland has a generally sound legislative and institutional AML/CFT framework. In recent years, Ireland has put in place measures to improve its understanding of risks and national coordination and cooperation is a strong point of the Irish AML/CFT system. While a substantial level of effectiveness has been demonstrated in a number of areas, further measures and resources are required for a fully effective AML/CFT system that is commensurate with the risks faced in Ireland.

- National coordination mechanisms such as the Anti-Money Laundering Steering Committee (AMLSC), the Cross Departmental International Sanctions Committee (CDISC) and the Private Sector Consultative Forum (PSCF) were fruitful in broadening the understanding of its ML and TF risks across all relevant agencies and with the private sector. Ireland's first National Risk Assessment (NRA), published in October 2016, takes into account a wide range of inputs in assessing vulnerabilities and threats.  While Ireland appears to have a strong understanding of ML risks based on domestic crime, more could be done to clearly identify  Ireland's  international ML risks, particularly considering that Ireland is a highly interconnected economy and with a large financial sector in relation to GDP. The NRA could be further supported by quantitative data.

- Ireland covers a comprehensive range of reporting entities for the purposes of its AML/CFT system. However there are some technical deficiencies in relation to PEPs, correspondent banking and higher risk jurisdictions. Supervisors are aware of the relevant ML/TF risks and were able to demonstrate that they are taking a risk-based approach to supervision. While the Central Bank of Ireland (CBI) is performing well in supervising financial institutions (FIs) in Ireland, the Department of Justice and Equality (DoJE) who supervises some of the higher-risk DNFBP sectors are under-resourced.

- The private sector's understanding of ML/TF risks is mixed. Members of the PSCF tended to have a better understanding of risks and were able to discuss the issues in the NRA, whereas other

private sector participants tend to have a more basic appreciation. The private sector appeared to have a close relationship with supervisors and law enforcement (particularly the FIU) and assessors were of the view that with time and further outreach activities already planned by the authorities, the level of understanding should improve.

- Ireland has a single police force whose role includes crime and security matters. The FIU is embedded within the police force. Issues relating to the abilities and resources of the FIU identified in the last mutual evaluation of Ireland persist, including its lack of sophisticated IT software which means that there are limits on its ability to undertake strategic analysis. That said, law enforcement agencies demonstrated that they appreciated the importance of financial intelligence and routinely used it in predicate crime investigations and in asset confiscation. The integrated nature of the Irish police force appears to mitigate the technical issues faced by the FIU. In addition, at the time of the on-site visit, Ireland had taken actions to strengthen the IT capacity and prioritised measures to access further financial analysis expertise (by hiring additional forensic accountants). Ireland has also indicated that they intend to put in place mechanisms to protect the independence of the FIU. These actions will not only enhance Ireland's operational capabilities, but also enhance its understanding of ML risks.

- Ireland has a strong legislative framework for pursuing ML; however this has not translated to results at the trial stage. This may reflect reluctance on behalf of prosecutors to test the AML laws or a conservative approach by the judiciary which in turn acts as a disincentive to investigate complex ML cases. Ireland has not fully demonstrated an ability to identify, investigate and prosecute a wide range of ML activity including, in relation to foreign predicate offences and third-party ML. Considering Ireland's position as a regional and international financial centre, more analysis and action by authorities of complex, professionally-enabled ML schemes was expected. While Ireland has had some success in guilty pleas for ML, assessors were concerned that there have been no convictions for ML after a trial.

- Ireland has a strong legislative and institutional framework for asset confiscation, with a multi-agency Criminal Assets Bureau (CAB), which can target criminal proceeds through non-conviction based asset forfeiture, tax assessment and social welfare assessments. While asset confiscation initiatives have strong political and national support, the value of criminal proceeds confiscated and forfeited appear modest for a jurisdiction that pursues confiscation of criminal proceeds as a national priority and operates a post-conviction based and non-conviction based regime. The Office of the Director of Public Prosecutions (DPP)'s post - conviction based results also appear modest and warrant consideration.

- Irish authorities are experienced in dealing with domestic terrorism issues and have also shown an understanding of international TF issues. However, even with this experience and strong interagency coordination mechanisms, Ireland has had no prosecutions or convictions for TF.

- Ireland's system for targeted financial sanctions is generally sound, however deficiencies in the EU system mean that assets are not frozen without delay and further work needs to be done to implement proportional measures in relation to NPOs vulnerable to TF abuse. As with AML issues, national coordination on targeted financial sanctions is strong.

- Ireland's understanding of the ML/TF risks associated with gatekeepers and vulnerabilities associated with legal persons and arrangements requires, and is receiving, further attention. Measures to increase access to beneficial ownership are in the process of being strengthened and should be a priority considering international risks in this area.

- Irish authorities were able to demonstrate that they cooperate internationally on ML and TF issues. There is a significant upward trend in the number of requests for assistance received and made by Ireland, and the presence of significant ISP companies in the jurisdiction will impact on international cooperation and resourcing for Ireland significantly in the next decade.

### *Risks and General Situation*

2.	Ireland is an important regional and international financial centre, and is among the IMF's 29 systematically important financial centres. Ireland's funds and insurance sectors are well developed and have strong international links.

3.	Ireland has identified its main ML/TF threats as organised crime groups and former local paramilitary groups whose activities relate to drug trafficking, human trafficking and migrant smuggling, fuel laundering, and fraud (including VAT fraud).

4.	Domestically, although decreasing, cash continues to be an important part of the domestic economy and cash-intensive sectors such as dealers in high value goods, money remittance and currency exchange, as well as retail banks, pose vulnerabilities for ML/TF. Internationally, the financial sector, particularly the investment funds sector is seen as a vulnerable area for ML. Complex ownership structures and reliance on third-parties to undertake customer due diligence complicates the identification of beneficial ownership and could hide potential money laundering schemes. Gatekeepers also play an important role in this process. Payment institutions, which utilise Ireland as a base to "passport" to the rest of Europe through an extensive network, further increase the need for a close supervision of the sector.

5.	Ireland explained that as a result of their efforts to target domestic terrorist groups' funding sources, the groups' methods have evolved, from funding their activities through cigarette and fuel smuggling, and violent crimes such as robbery, to "lower" risk activities (for the terrorist groups) such as self-funding, taxation/extortion, and collection of funds from community gatherings. Irish authorities do not see a significant TF risk related to international terrorism, particularly when compared to other European jurisdictions. But Irish authorities acknowledge that such risks do exist and that only small amounts (from both legitimate and illegitimate sources) are needed to support TF. There are only a small number of returned foreign fighters (in the low double digits). While there is little evidence to show any coordinated approach to fundraising in support of terrorism, there are some areas of concern in relation to the collection of charitable funds within the community and the use and transfer of funds by charities/NPOs to conflict zones, which the authorities will continue to monitor.

## *Overall Level of Effectiveness and Technical Compliance*

### *Assessment of Risk, coordination and policy setting (Chapter 2-IO.1, R.1, R.2, R.33)*

6.      Overall, Ireland has a reasonably good understanding of its ML/TF risks. Ireland's NRA[1] identified a good range of specified threats (e.g. organised crime, drug trafficking, financial crime) and vulnerabilities (e.g. retail banks, payment institutions, funds).

7.      While the risk assessment (including the NRA) shows an appreciation of both domestic and international ML risk and the FIU and CBI are active contributors to international AML/CFT fora, the focus of law enforcement authorities appears to be more domestically orientated.

8.      Ireland's NRA could have included a more comprehensive range of quantitative data, such as those in relation to international cooperation (both formal and informal). The link between the threat and vulnerabilities assessment should be clearer and give greater consideration to cross-border ML/TF risks.

9.      The appreciation of international ML risks, particularly complex schemes, was uneven, especially for the private sector entities. There was also no comprehensive assessment of ML/TF risks of legal persons and arrangements.

10.      Authorities displayed a good understanding of domestic and international terrorism threats, and TF risks as they are associated with those threats.

11.      Interagency coordination and cooperation is a strong point of the Irish AML/CFT system and includes all the relevant competent authorities.

12.      The AMLSC has laid out an Action Plan to address certain ML/TF risks, but there are no specific national AML/CFT policies. Risk mitigation measures have been put in place to address the key ML/TF risks in Ireland, although authorities could enhance measures to address other risk issues such as cash and the use of gatekeepers for ML.

### *Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)*

13.      Financial intelligence, to a large extent, is accessed and used in investigations to develop evidence and trace criminal proceeds related to ML and predicate offences. Financial information has supported operational needs in terms of terrorism investigations and disruption efforts. Law enforcement routinely request and receive STR and other information from the FIU that assists them in their investigations, and they are generally satisfied with the information obtained upon their request. Coordination and cooperation within the national police force, An Garda Síochána (AGS), and between competent agencies is a strong point of the Irish system, with a range of agencies accessing financial information in a timely manner to assist in investigations. The FIU performs

---

[1]      Department of Finance (2016), *National Risk Assessment for Ireland, Money Laundering and Terrorist Financing,*
www.justice.ie/en/JELR/National_Risk_Assessment_Money_Laundering_and_Terrorist_Financing_Oct16
.pdf/Files/National_Risk_Assessment_Money_Laundering_and_Terrorist_Financing_Oct16.pdf

operational analysis of STRs and has provided examples of its work to identify complex ML schemes and networks; however its ability to perform strategic analysis is limited under its current IT framework.

14.      The FIU is embedded within the AGS, which assists in its ability to collaborate with, and seek input from, other investigative units. However, to ensure the operational independence of the FIU, additional safeguards are necessary to formally ring-fence the FIU from other police functions.

15.      While Ireland has had some success in identifying and investigating ML related to predicate crime investigations, its ability to identify a wide range of potential ML activity is limited. The majority of ML cases are associated with investigations into fraud and drug trafficking, which corresponds with the major ML threats identified by Ireland. There are limited examples of successful prosecutions in relation to foreign predicate offences and third-party ML; however, there are several on-going investigations in these areas.

16.      Ireland has a strong ML offence but this has not translated into results at the trial stage. While Ireland has managed to secure 22 convictions for ML where the offender has pleaded guilty, there are concerns that there have been no convictions (only 2 acquittals) for ML after a trial. This may reflect reluctance on behalf of prosecutors to test the AML laws or a conservative approach by the judiciary, which in turn acts as a disincentive to investigate complex ML cases. There have been no sanctions against a legal person. While Ireland has some success in ML convictions through guilty pleas, the sanctions applied to natural persons while proportionate to other profit-generating crimes, are not effective and dissuasive.

17.      Ireland's framework for confiscation is generally sound. Confiscation is pursued as a national policy objective and has strong political and national support. The multi-agency CAB is dedicated to recovering the proceeds of crime. While Ireland clearly pursues post-conviction based confiscation and non-conviction based confiscation as a policy objective, it is not clear that its confiscation and forfeiture results are fully consistent with the ML/TF risks identified in its NRA.  The value of criminal proceeds confiscated appears modest within the context of Ireland's ML risks, but focus on areas of risk including the proceeds of drug crimes and financial crime. Given Ireland has identified a number of threats associated with the activities of OCGs linked with foreign OCGs, it was not clear that Ireland was routinely tracing assets abroad in order to deprive criminals of the proceeds of crime which may have moved to other jurisdictions. Ireland has, to some extent, confiscated cross-border movements of cash as form of dissuasive action by customs authorities. The Office of the Revenue Commissioners (Customs), Ireland's lead agency in the control of cross-border cash movements, pursues confiscation of currency suspected to be proceeds of crime. Allocation of additional resources to Customs will enhance efforts in this area which should be considered a priority given Ireland's identified risk in respect of cash.

## Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9-11; R.5-8)

18.      Irish authorities have a good understanding of their domestic and international terrorism threats, and TF risks as they are associated with those threats. Irish authorities strongly prioritise counter-terrorism initiatives. On-going counter-terrorism and TF investigations (to the extent that

TF investigations have been initiated) are well-co-ordinated within the various units in the police and security service. Ireland has a single police and security service and the authorities have demonstrated successes utilising security and operational intelligence to disrupt terrorist activities.

19.      A number of domestic terrorism charges were brought against persons, which resulted in successful prosecutions and convictions. However, no prosecutions of TF offences have occurred either as a stand-alone prosecution or as part of a counter-terrorism prosecution. In instances where TF activities have been identified however, the authorities pursued offences such as forgery and membership of the IRA (under the general counter-terrorism legislation) rather than TF charges. It would appear that the evidential requirements of some elements of the TF offence (such as knowledge and the destination/use of the funds) are difficult to prove beyond a reasonable doubt.

20.      Ireland has a legal system in place to apply targeted financial sanctions regarding TF and PF, and has established an effective Cross Departmental International Sanctions Committee (CDISC), to coordinate the implementation of targeted financial sanctions (TFS). The implementation does have technical and practical deficiencies due to the procedures set at the EU level that impose delays on the transposition of designated entities into sanctions lists and the absence of measures to freeze the funds of EU internals.

21.      Ireland has considered the potential vulnerabilities within the NPO sector in its NRA and has recently designated a regulator for the sector, however Ireland has not yet applied focused and proportionate measures to such NPOs identified as being vulnerable to TF abuse.

## Preventive Measures (Chapter 5– IO.4; R.9-23)

22.      FIs have a reasonably good understanding of the ML/TF risks, with the international FIs having a better appreciation of the cross-border ML/TF risks. Some FIs, particularly the Irish domiciled FIs, appear to be more focused on the domestic risks and pay less attention to cross-border ML/TF risks. FIs' risk understanding is also more focused on the operational aspects and challenges in relation to the collection of identification and verification of customer and beneficial ownership information.

23.      Overall, banks, fund administrators and some payment institutions, particularly the international FIs, have developed appropriate AML/CFT controls and processes, including CDD and transaction monitoring. In areas such as controls and processes for higher risk customers and transactions, they could be further enhanced.

24.      DNFBPs' understanding of their ML/TF risks are largely domestically focused. Accountants who perform auditing services and some of the larger TCSPs have shown a better understanding of their ML/TF risks including cross-border ML/TF risks. Overall, the AML/CFT controls and process in place for DNFBPs were less sophisticated in nature and in many cases, the CDD and monitoring process are manual (although this could be appropriate in some cases where the business and customer profile are less complex).

25.      The implementation of CDD (e.g. collection of beneficial ownership information and existing clients) measures by FIs and DNFBPs could be further strengthened. There are also concerns on

their ability to identify, in a timely and accurate manner, relationships/transactions in relation to PEPs and designated entities in relation to TFS.

26.     For some FIs and DNFBPs, there is indication that there is strong reliance on local community networks and knowledge. While this is a useful source, and could enrich customer understanding when used appropriately, it could also be subject to preconceived notions, and not always adequately supported by objective analysis. Further, such strong reliance may reduce the incentive to give adequate focus to external and cross-border factors.

27.     The level of STR reporting, particularly by DNFBPs (e.g. TCSPs, PSMDs etc.), is also low.

## Supervision (Chapter 6 – IO.3; R.26-28, R.34-35)

28.     The Central Bank of Ireland (CBI) and the Department of Justice and Equality (DoJE) have a good understanding of the ML/TF risks present in the sectors that they supervise. The understanding of risks at an individual entity level is not as comprehensive but will improve with the full implementation of the risk supervisory model.

29.     There is good cooperation between FIs and DNFBPs and their supervisors which are well-respected. The outreach measures and guidance have been helpful to them.

30.     The CBI has generally robust controls in place at market entry for FIs, including background checks. The CBI also proactively targets unauthorised financial services providers. The DoJE has also fitness and probity controls. Some designated accountancy bodies over-rely on self-declarations.

31.     Both the CBI and the DoJE follow a risk based approach.

## Transparency of Legal Persons and Arrangements (Chapter 7 – IO.5; R.24-25)

32.     Ireland has good information, available centrally and publicly, on creation and types of legal persons and the legal ownership of corporate vehicles. Similar information on legal arrangements is gathered by Ireland's tax authorities but is not publicly available.

33.     Ireland has assessed and acknowledges that legal persons and arrangements may be used by persons seeking to launder illicit proceeds, but not comprehensively.

34.     Ireland has taken some measures to prevent the misuse of legal persons. Registration and ongoing filing obligations to CRO provide for detailed measures to ensure legal persons are created in a transparent manner. Basic information and legal ownership information can be easily obtained. However, obtaining beneficial ownership information beyond the immediate shareholder is currently limited. Ireland permits the use of nominee directors and shareholders for companies, but a new obligation on all corporate entities to obtain and hold current beneficial ownership data will provide some mitigation of risks of ML/TF abuse via nominees by effectively requiring disclosure of nominee shareholders and directors where they are used to effectively control the company.

35.     Revenue maintains beneficial ownership information for certain legal persons and for legal arrangements which have tax consequences. Further beneficial ownership information is obtained

and maintained individually by FIs and DNFBPs pursuant to CDD obligations provided for in Ireland's AML/CFT law.

36.    Competent authorities have the necessary powers to access this information in a timely manner in the cases when the legal person or arrangement has a relationship with the financial institution or professional service provider. Notwithstanding the CDD and tax law requirements, there are limitations on the availability of information regarding beneficial ownership of express trusts.

37.    Ireland has proactively taken steps to provide for the central register of corporate beneficial ownership through regulations of 15 November 2016. Once fully established and operational, this will enhance timely access to accurate and up-to-date information on beneficial ownership.

### International Cooperation (Chapter 8 – IO.2; R. 36-40)

38.    Ireland demonstrates many characteristics of an effective system for international cooperation.  Ireland provides a range of international cooperation, including MLA, extradition, intelligence/information and, where available, beneficial ownership information. Despite the strong domestic asset confiscation framework in place in Ireland, some issues have arisen in relation to confiscation and sharing of assets internationally which require moderate improvements.

### Priority Actions

- Ireland's understanding of risks should include a more comprehensive range of quantitative data, such as those in relation to international cooperation (both formal and informal). Ireland should at the next iteration of the NRA, better illustrate the links between the threat and vulnerabilities assessment and give greater consideration to the cross-border ML/TF risks. FIs and DNFBPs (in particular) should seek to further deepen their ML/TF risks understanding, particularly in relation to cross-border ML/TF risks.

- Ireland should more actively pursue TF prosecutions in line with its risk profile, with a view to securing TF convictions.

- Ireland should seek to prosecute a wider range of ML cases, including both domestic cases and cases with an international component, relating to professional ML schemes and complex financial products, in line with its risk profile. Ireland should ensure that adequate resources are allocated to the dedicated ML investigation teams.

- Authorities should further enhance efforts to pursue the proceeds of crime moved offshore. Ireland should review and strengthen its asset confiscation legislation, procedures and policies in relation to international asset freezing, seizing, confiscation and sharing of assets.  Authorities should also ensure that the expansion of their remit to cover mid-level criminality, does not impact the focus on, and resources committed to targeting high-level organised crime figures and complex financial crime.

- It is recommended that focused and proportionate measures be applied to NPOs identified as being vulnerable to TF abuse.

- Ireland should ensure that there are adequate procedures in place to safeguard the role of the FIU and ensure its independence.

- Ireland should take further steps to ensure competent authorities can have timely and accurate access to beneficial ownership information including from FIs and DNFBPs. In this sense, Ireland should continue to take proactive steps to facilitate the operation of the central register of corporate beneficial ownership.

- The DoJE should continue to expand its monitoring of entities under its remit, and increase its resources accordingly.

- Supervisors, in particular for DNFBPs, should further focus on ensuring compliance with PEPs and TFS obligations. The Law Society and designated accountancy bodies should apply effective, proportionate and dissuasive sanctions for non-compliance with AML/CFT requirements.

- Ireland should amend its legislative framework to address the technical deficiencies noted in the TC Annex, such as for some DNFBPs, and in relation to PEPs and high-risk countries.

## Effectiveness & Technical Compliance Ratings

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

| IO.1 - Risk, policy and coordination | IO.2 - International cooperation | IO.3 - Supervision | IO.4 - Preventive measures | IO.5 - Legal persons and arrangements | IO.6 - Financial intelligence |
|---|---|---|---|---|---|
| **Substantial** | **Substantial** | **Substantial** | **Moderate** | **Moderate** | **Substantial** |

| IO.7 - ML investigation & prosecution | IO.8 - Confiscation | IO.9 - TF investigation & prosecution | IO.10 - TF preventive measures & financial sanctions | IO.11 - PF financial sanctions | |
|---|---|---|---|---|---|
| **Moderate** | **Moderate** | **Moderate** | **Moderate** | **Substantial** | |

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

| R.1 - assessing risk & applying risk-based approach | R.2 - national cooperation and coordination | R.3 - money laundering offence | R.4 - confiscation & provisional measures | R.5 - terrorist financing offence | R.6 - targeted financial sanctions – terrorism & terrorist financing |
|---|---|---|---|---|---|
| **LC** | **LC** | **C** | **C** | **LC** | **PC** |

| R.7- targeted financial sanctions - proliferation | R.8 -non-profit organisations | R.9 – financial institution secrecy laws | R.10 – Customer due diligence | R.11 – Record keeping | R.12 – Politically exposed persons |
|---|---|---|---|---|---|
| **PC** | **PC** | **C** | **LC** | **LC** | **PC** |

| R.13 – Correspondent banking | R.14 – Money or value transfer services | R.15 –New technologies | R.16 –Wire transfers | R.17 – Reliance on third parties | R.18 – Internal controls and foreign branches and subsidiaries |
|---|---|---|---|---|---|
| **PC** | **LC** | **PC** | **PC** | **LC** | **PC** |

| R.19 – Higher-risk countries | R.20 – Reporting of suspicious transactions | R.21 – Tipping-off and confidentiality | R.22 - DNFBPs: Customer due diligence | R.23 – DNFBPs: Other measures | R.24 – Transparency & BO of legal persons |
|---|---|---|---|---|---|
| **NC** | **C** | **C** | **PC** | **LC** | **LC** |

| R.25 - Transparency & BO of legal arrangements | R.26 – Regulation and supervision of financial institutions | R.27 – Powers of supervision | R.28 – Regulation and supervision of DNFBPs | R.29 – Financial intelligence units | R.30 – Responsibilities of law enforcement and investigative authorities |
|---|---|---|---|---|---|
| **PC** | **LC** | **C** | **LC** | **PC** | **C** |

| R.31 – Powers of law enforcement and investigative authorities | R.32 – Cash couriers | R.33 – Statistics | R.34 – Guidance and feedback | R.35 – Sanctions | R.36 – International instruments |
|---|---|---|---|---|---|
| **LC** | **PC** | **PC** | **LC** | **LC** | **C** |

| R.37 – Mutual legal assistance | R.38 – Mutual legal assistance: freezing and confiscation | R.39 – Extradition | R.40 – Other forms of international cooperation | | |
|---|---|---|---|---|---|
| **C** | **LC** | **C** | **LC** | | |

Anti-money laundering and counter-terrorist financing measures in Ireland – 2017