



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

ANNUAL REPORT ON MONEY LAUNDERING AND TERRORIST FINANCING

2014

*Issued by the Anti-Money Laundering/Counter Terrorist Financing
Policy Coordination Unit*

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Section 1 – Introduction

This Report has been prepared on foot of Article 33 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 (the 3rd Directive) on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. It gives an overview of Ireland's response to money laundering and terrorist financing by setting out the relevant legislative and regulatory framework along with the roles played by the various enforcement and supervisory authorities. Information is provided in both a narrative and statistical format.

What is money laundering and terrorist financing?

Money laundering and terrorist financing are global phenomenon, evident in many parts of the world. Techniques can range from the simple bulk cash movements across borders or the organisation of terrorist acts through the misuse of charitable funds to the more sophisticated techniques hidden in trade transactions. Both money laundering and terrorist financing can severely tarnish the reputation of countries, financial institutions and non-governmental organisations even if they are unwittingly involved in such activity.

Money laundering is the term used to describe the means by which criminals try to disguise the original ownership and control of the proceeds of crime i.e. turning 'dirty' money or property into 'clean' funds. The processes by which money may be laundered are wide-ranging and may involve goods and/or assets. By concealing monies gained through criminal enterprises and making these appear to have come from legitimate sources, criminals can accumulate and use the proceeds of crime for personal gain and to fund further criminal enterprises.

Terrorist financing is defined by what the funds are to be used for i.e. terrorist activity, rather than the source of these funds, as is the case with money laundering. Funds to support terrorist groups can have both legal and illegal sources and can involve legitimate businesses and charities in addition to funds raised through criminal means.

Section 2 - Money Laundering, Terrorist Financing and the Law in Ireland

Background

The general framework of the money laundering legislation in Ireland, as elsewhere, is based on putting in place a range of 'defensive' measures intended to mitigate the risk of money laundering occurring in the first place and in instances where money laundering does occur to ensure that significant sanctions are applied in those cases.

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

Legislative developments

The main provisions in Irish law relating to money laundering were first set out in Section 31 of the Criminal Justice Act 1994, (as amended). The offence of financing terrorism was subsequently criminalised in the Criminal Justice (Terrorist Offences) Act 2005 which amended Sections 32 and 57 of the 1994 Act.

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

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

- Financial Institutions
- Credit Unions
- Electronic money institutions
- Retail credit firms
- Moneylenders
- Insurance undertakings and insurance intermediaries
- Investment business firms
- Collective investment schemes
- Funds and Fund services providers
- Bureaux de Change and Money Transmission Businesses
- Independent legal professionals (Barristers and Solicitors)
- Auditors and external Accountants
- Tax Advisers
- Trust or Company Service Providers
- Dealers in High Value Goods (*specifically those who may receive payments in cash of at least €15,000 whether in a single transaction or in a series of linked transactions*)
- Private Members' Clubs (*at which gambling activities are carried on*).

In order to ensure that businesses with anti-money laundering/counter terrorist financing obligations (referred to in the legislation as 'designated persons') have put in place the required procedures a number of Competent Authorities are assigned supervisory roles. These Competent Authorities include entities such as the Central Bank of Ireland, the Anti-Money Laundering Compliance Unit of the Department of Justice and Equality alongside a range of others with expertise in the relevant sectors. Competent Authorities conduct inspections, risk assessments and employ a range of other measures to mitigate risks in their sectors. In addition to complying with the requirements of the Competent Authorities, 'designated persons' are also legally obligated to report suspicious transactions to An Garda Síochána and to the Revenue Commissioners.

In terms of the consequences for those found to be involved in money laundering, the seriousness of the offence is reflected in the level of penalties which a person may face if found guilty. On summary conviction the guilty party could face a fine of up to €5,000 and a term of imprisonment of up to 12 months. On indictment, an offender found guilty could be jailed for up to 14 years or be fined or both.

The Irish anti-money laundering framework was subsequently further strengthened by the enactment of the Criminal Justice Act, 2013. The 2013 Act amended the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 giving rise to changes in a number of areas including:

- Customer Due Diligence (CDD) and in particular
 - Occasional transactions,*
 - Changes to grounds for applying CDD,*
 - Required verification for reduced CDD,*
 - Obligations for applying enhanced CDD in high risk circumstances,*
 - Changes to CDD for Politically Exposed Persons (PEPs).*
- Requirements for enhanced policies and procedures for detecting and preventing money laundering.
- Changes to allow for the retention of documentation overseas (subject to specified conditions).
- Changes to allow the issuing of directions, by the Central Bank of Ireland and the Minister, to 'designated persons' requiring them to take particular actions for the purpose of compiling with Part 4 of the 2010 Act.

Guidelines¹

During 2012, Guidelines on the prevention of the use of the financial system for the purposes of money-laundering and terrorist financing were published on the website of the Department of Finance following a consultation process with relevant stakeholders. The Guidelines are structured in 2 parts. Part 1 contains general guidance for all 'designated persons' while Part 2 contains sector specific guidance.

New Developments: The 4th EU Anti-Money Laundering Directive

On 20 May 2015 the European Parliament adapted the 4th EU Money Laundering Directive² (the 4th Directive). The 4th Directive is designed to update and improve the EU's anti-money laundering and counter-terrorist financing laws by bringing the EU in line with the recommendations of the Financial Action Task Force (FATF)³ with increased focus on the risk-based approach (RBA) and uniformity of rules.

The 4th Directive sets out a number of proposals which will seek to change the manner in which obliged entities, currently referred to as 'designated persons', undertake their anti-money laundering/counter terrorist financing compliance obligations.

Key changes will include

- The extension of the Politically Exposed Person (PEP) regime to cover domestic PEPs and persons entrusted with a prominent function by an international organisation.
- The removal of the automatic entitlement to apply Simplified Customer Due Diligence when dealing with specified customers and products.

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

² Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

³ An inter-governmental body which sets standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

- An increased range of sanctions which may be imposed for breaches by 'obliged entities' of their obligations.
- The identification of the beneficial ownership of companies and trusts is intended to be simplified through access to newly created registers of ownership information.
- Lists of PEPs and their family members and close associates will be available to help the 'obliged entities' in the identification process of such individuals.
- The introduction of risk assessments at EU and national level which will be shared with the 'obliged entities' to assist them in preparing their own risk assessment of their businesses and customers.
- Reduction of the threshold for traders in cash transactions of high value goods, from €15,000 to €10,000.
- Reduction of anti-money laundering/counter terrorist financing obligations for the gambling sector beyond casinos to include 'providers of gambling services,' thereby requiring the implementation of more stringent procedures by businesses in the gambling sector.

Section 3 - Combating Money Laundering and Terrorist Financing in Ireland

3.1 Threats

Money laundering

When a criminal activity generates substantial profits, the individual or group involved must find a way to control the funds without attracting attention to the underlying activity or the persons involved. Criminals do this by disguising the sources, changing the form, or moving the funds to a place where they are less likely to attract attention. This process is commonly referred to as 'money laundering' and it enables criminals to retain profits derived from crime and to finance further criminal enterprises. There are a wide range of 'predicate offences' commonly connected with money laundering which include:

- Illegal arms sales,
- Smuggling,
- Drug trafficking,
- Prostitution,
- Embezzlement,
- Insider trading,
- Bribery and
- Computer fraud schemes.

Terrorist financing

Terrorist financing is defined by what funds are used for i.e. terrorist activity, rather than the attempt to conceal the illegal origin of funds as is the case with money laundering. Therefore, the sources by which terrorists generate funding are diverse and encompass both legal and illegal activities. According to FATF, these sources of terrorist financing can be divided into two general types: financing from above, in which large-scale financial support is aggregated centrally by States, companies, charities or permissive financial institutions; and financing from below, in which terrorists fund-raising is small-

scale and dispersed, for example based on self-financing by the terrorists themselves using employment or welfare payments. A single terrorist organisation may use a number of different financing methods. What is noteworthy is the great adaptability and opportunism that terrorists deploy in meeting their funding requirements. The raising, moving and using of funds for terrorism can be especially challenging and almost indistinguishable from the financial activity associated with everyday life.

3.2 Enforcement

Reporting suspicions

In order for Ireland's anti-money laundering and terrorist financing regime to be effective, 'designated persons' must disclose any knowledge or suspicions they may have regarding such activities to both An Garda Síochána and the Revenue Commissioners. This disclosure is commonly referred to as a "suspicious transaction report" or STR and is provided for under Section 42 of the 2010 Act.

Competent Authorities (such as the Minister for Justice and Equality, the Central Bank of Ireland, the Law Society and Accountancy Bodies) can also report suspicions to An Garda Síochána and to the Revenue Commissioners under Section 63 of the 2010 Act.

Information to be set out in these reports include:-

- the basis for the knowledge, suspicion or reasonable grounds for suspicion.
- the identity, if known, of the person suspected of being engaged in a money laundering or terrorist financing offence.
- the whereabouts of the property or funds suspected to be the subject of money laundering or terrorist financing.
- any other information that is considered may be relevant.

How reports of suspicions are used

Information contained in reports is used for a variety of purposes including:-

- the identification and investigation of crimes such as drug trafficking and customs offences
- tax related offences and
- other activities such as auditing and compliance monitoring.

Investigating suspicions

An Garda Síochána and the Revenue Commissioners liaise closely with each other on issues of mutual concern, especially in relation to reports which may indicate a criminal offence. In such instances, An Garda Síochána will undertake an investigation and upon completion the Revenue Commissioners will enquire as to the potential occurrence of tax offences.

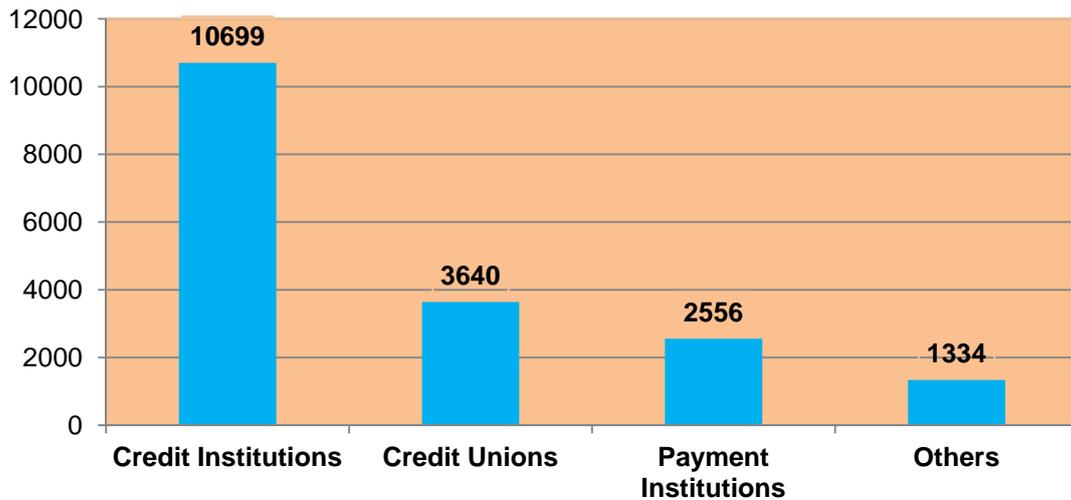
The flow of reported suspicions from 'designated persons' and Competent Authorities to An Garda Síochána and to the Revenue Commissioners enable investigations and prosecutions to be initiated and ultimately for criminal convictions or other appropriate sanctions to be imposed.

An overview of reports received in 2014

In 2014 An Garda Síochána received a total of 18,229 Suspicious Transaction Reports (STRs) while the Revenue Commissioners received 18,149, a difference of 80 reports. The difference between these 2 figures is accounted for by the fact that not all reports of suspicions are sent to both enforcement bodies (**see Reporting Suspicions**), in a small number of cases, 'designated persons' neglect to inform the Revenue Commissioners.

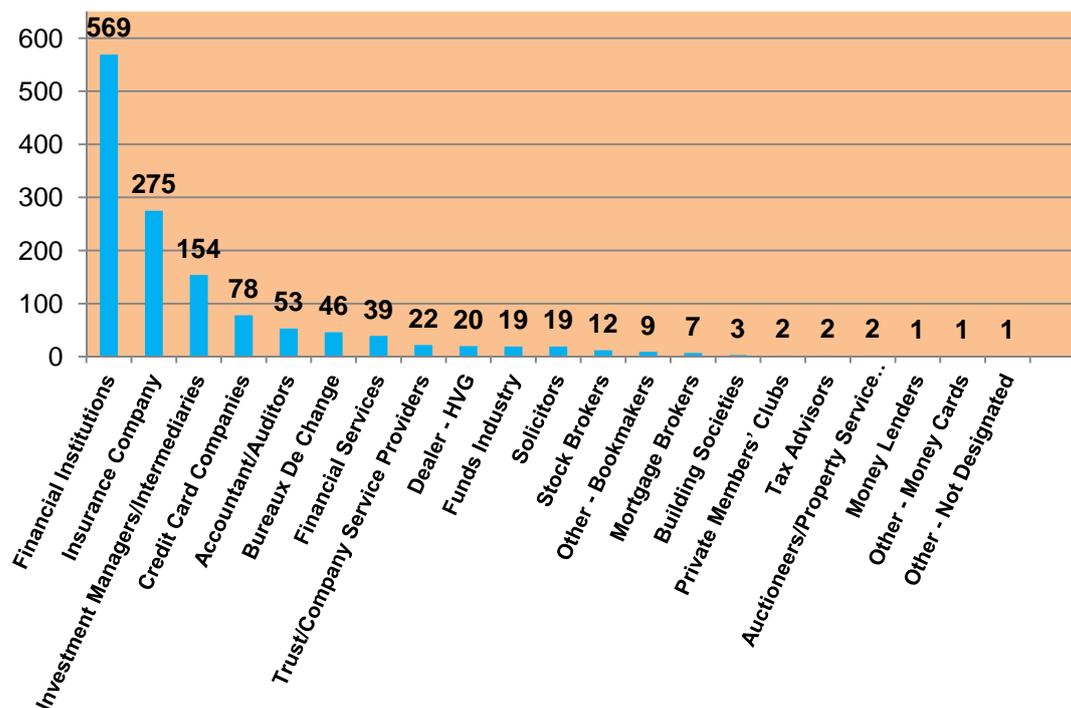
Examination of STRs received by An Garda Síochána shows that 3 categories of 'designated persons' accounted for 93% (16,985) of reports. Of these, Credit Institutions alone accounted for 59% (10,699) with Credit Unions accounting for 20% (3,640) and Payment Institutions accounting for 14% (2,556). Reports received from a wide range of other 'designated persons' accounted for the remaining 7% (1,334). Competent Authorities submitted some 73 Section 63 Reports to the enforcement authorities.

Figure 1: Reporting of suspicions in 2014



A further examination of the remaining 1,334 STRs submitted by other 'designated persons' shows that even amongst this group financial type institutions submitted the majority of reports. The 3 'designated persons' who submitted the greatest number of reports in this other group included Financial Institutions (43%/569), Insurance Companies (21%/275) and Investment Managers/Intermediaries (12%/154).

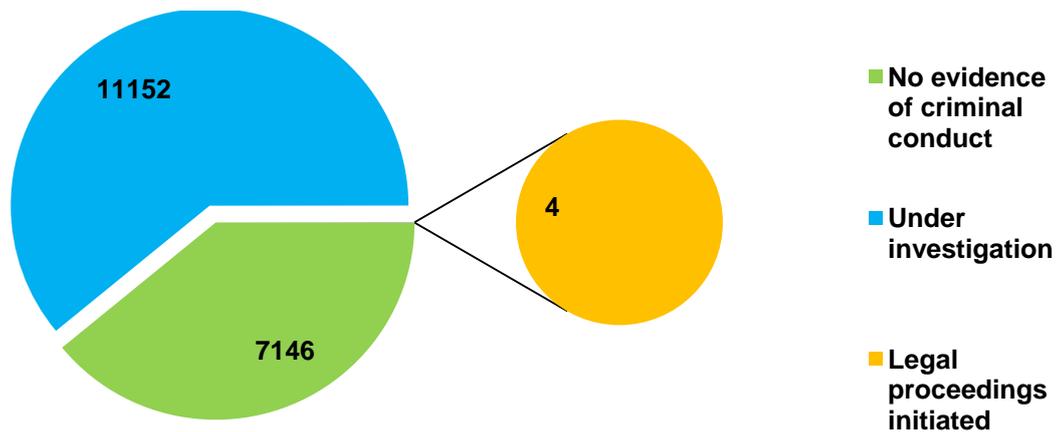
Figure 2: Reporting of suspicions by 'other designated persons' in 2014



Outcome of reported suspicions

At the end of 2014, the majority of reports (11,152) were still under investigation. A further 7,146 reports were closed as no evidence linking funds to criminal conduct could be found - a number of these cases may be examined by the Revenue Commissioners in relation to tax offences. The Revenue Commissioners reported that in excess of 80% of reports it received concern tax related offences with information generated on foot of these reports having resulted in a cumulative tax yield of €27,171,774. Four reports led to the initiation of legal proceeding including 2 cases which saw the suspects charged and convicted of fraud related offences, 1 case is pending before the courts while 1 case was struck out in court.

Figure 3: Outcome of reported suspicions



Reported suspicions: The Financial Sector and Designated Non-Financial Businesses and Professions

An examination of reported suspicions received by An Garda Síochána and the Revenue Commissioners clearly shows a significant disparity between the Financial Sector which has a very high rate of reporting suspicions and Designated Non-Financial Businesses and Professions (DNFBPs) which report relatively few suspicions. This is a cause for concern given that large cash transactions, which pose difficulties in terms of traceability, can be commonplace in some parts of the DNFBP sector such as High Value Goods Dealers.

Difficulties faced by some sections of the DNFBP sector in reporting suspicions can include

- a lack of awareness of the need to have appropriate anti-money laundering/counter terrorist financing measures in place, including obligations to report suspicions,
- a lack of anti-money laundering/counter terrorist financing resources and expertise owing to the small scale and diversity of the majority of businesses in the DNFBP sector.
- the high turnover rate of employees in DNFBPs with anti-money laundering/counter financing compliance knowledge,
- the often subjective nature of determining whether a transaction is in fact suspicious.
- the pressures of operating a profitable business while trying to meet compliance obligations
- concerns individuals may have regarding possible repercussions as a consequence of alerting the authorities to potential criminal activity.

3.3 Supervision

Supervising ‘designated persons’

Persons attempting to launder the proceeds of crime or raise finances to fund terrorist activity seek to exploit a wide range of businesses, services and products including deposit-taking institutions, non-bank financial institutions, civil society organisations, non-financial institutions and businesses where cash placement can be a feature. Given the diversity of the businesses and sectors of the economy that may be targeted, mitigating the risks posed by money laundering and terrorist financing requires the supervision of a wide range of business sectors by a number of different Competent Authorities with expertise in these different fields.

The following sets out the relevant sectors under regulation and the Competent Authorities with responsibilities in this regard.

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

Reducing vulnerability to money laundering and terrorist financing

The regulatory framework for mitigating the risks of money laundering and terrorist financing is primarily based on ensuring that businesses implement a number of 'defensive' measures to reduce their vulnerability to these criminal activities. These include:

- Conducting Customer Due Diligence (CDD) - specific and detailed provisions relating to the obligation to verify the identity of customers;
- The identification and the verification of the identity of beneficial owners;
- The submission of reports concerning suspicions of money laundering or terrorist financing to An Garda Síochána and to the Revenue Commissioners (as set out in the previous section);
- The development and maintenance of anti-money laundering policies and procedures by 'designated persons';
- The assessment of risk.
- The provision of staff training.

In order to ensure compliance with these measures Competent Authorities have a range of powers and sanctions which they may apply. These can include:

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

Financial and Credit Institutions:

The Central Bank of Ireland

The Central Bank of Ireland (the Central Bank) is the competent authority for the supervision of approximately 11,000 credit and financial institutions for compliance with legislation pertaining to anti-money laundering and counter terrorist financing. The Central Bank is also one of three competent authorities for the administration of the EU Financial Sanctions Regime in the State.

Supervision

In 2014 the Central Bank conducted a total of 33 inspections and 20 risk assessments across a variety of institutions.

Table 1: Inspections and risk assessments by the Central Bank of Ireland

| Type of institution | Inspection | Risk assessment |
|----------------------------|-------------------|------------------------|
| Retail Banks | 1 | 0 |
| Credit Unions | 5 | 12 |
| Markets | 11 | 8 |
| Moneylenders | 1 | 0 |
| Investment Asset Managers | 1 | 0 |
| Multi-Agency Intermediary | 2 | 0 |
| Branches of foreign banks | 6 | 0 |
| Insurance | 6 | 0 |
| <i>Total</i> | 33 | 20 |

New developments

In January 2014 the Central Bank assumed responsibility for the authorisation and supervision of TCSPs which are subsidiaries of credit or financial institutions. During 2014 a total of 30 TCSPs were authorised by the Central Bank.

Other measures

In addition to inspections and risk assessments the Central Bank also engaged in a range of other anti-money laundering counter and terrorist financing activities in the areas of

- training,
- guidance,
- awareness raising,
- domestic and international policy guidance and development and
- technical assistance at both a national and international level.

Solicitors: The Law Society of Ireland

The Law Society of Ireland (the Law Society) is the professional body for solicitors in Ireland which, in addition to the statutory functions it exercises under the Solicitors Acts 1954 to 2008, is also the competent authority for the monitoring of solicitors for the purposes of compliance with Ireland anti-money laundering/counter terrorist financing laws (**see Section 2**).

Supervision

There are approximately 2,200 firms of solicitors that are required to file annual accountants' reports with the Law Society. Any of these firms may be subject to an inspection which may include compliance with anti-money laundering and terrorist financing obligations. The Law Society uses a risk based system when choosing firms for inspection in addition to conducting some random inspections.

In 2014, a total of 406 firms were examined by the Law Society for anti-money laundering compliance. Of these 80% had implemented the legally required procedures. Of the remaining 20%, non-compliance normally involved not having formal written anti-money laundering procedures in place. These firms were required to submit a copy of the new written procedures to the Law Society. Furthermore these firms were directed to both the online Guidance Notes and the availability of individual guidance by telephone and email (**see *Other measures***). The Law Society reported providing 10 reports of suspicions of money laundering to An Garda Síochána and to the Revenue Commissioners⁴.

⁴ As a Competent Authority the Law Society provides reports of suspicions of money laundering/terrorist financing under section 63 of the 2010 Act.

Other measures

In addition to supervision the Law Society also engaged in a range of other anti-money laundering and terrorist financing activities including:

- Awareness raising via a dedicated AML web resource hub, guidance notes, eZine articles and email alerts about emerging money laundering typologies
- Guidance via an anti-money laundering helpline, detailed guidance notes
- Education via courses for trainee solicitors, ongoing training courses, and through obligatory training for AML Compliance Partners in solicitors firms.

Auditors, External Accountants, Tax Advisors, Trust or Company Service Providers: Accountancy Bodies

Several different accountancy bodies act as a Competent Authority in terms of anti-money laundering/counter terrorist financing compliance in Ireland for auditors, external accountants, tax advisors and trust or company service providers (*who are members of a designated accountancy body*) operating in Ireland. For the purpose of the 2014 Annual Report contributions were received from the following bodies

- Association of Chartered Certified Accountants (ACCA)
- Association of International Accountants (AIA)
- The Institute of Certified Public Accountants (CPA)
- The Chartered Institute of Management Accountants (CIMA)
- Chartered Accountants Regulatory Board (CARB)
- The Chartered Institute of Public Finance and Accountancy (CIPFA)

Supervision

Anti-money laundering/counter terrorist financing compliance checks performed by Accountancy Bodies are normally carried out as part of inspections examining overall adherence to required professional standards. Inspections are conducted on the basis of a combination of desk based reviews of annual reports and on-site visits. Recent years have seen an increased focus on adapting a risk based approach to monitoring, whereby information obtained via annual returns is used to help develop a better understanding of risk in the sector. This approach allows for higher risk areas to receive greater attention.

The quantity of inspections conducted by Accountancy Bodies varies according to the number of 'designated persons' under the supervision of each Body. In the majority of cases it was found that 'designated persons' had fulfilled their obligations vis-à-vis anti-money laundering/counter terrorist financing requirements.

Where breaches did occur they related to:

- A lack of sufficient training/expertise regarding anti-money laundering/counter terrorist financing obligations.
- Insufficient records of client identification.
- Absence of formal written policies and procedures.

Penalties imposed by Accountancy Bodies ranged from firms undertaking to update their procedures, to more punitive penalties such as the payment of a regulatory penalty, depending on nature and scale of non-compliance.

Other measures

Accountancy bodies offer a range of services focused on training and guidance to help 'designated persons' better meet their anti-money laundering/counter terrorist financing obligations.

Other Designated Persons: The Anti-Money Laundering Compliance Unit (the Department of Justice and Equality)

The Anti-Money Laundering Compliance Unit (AMLCU) was established in the Department of Justice and Equality in 2010 to administer the functions of a State Competent Authority for 'designated persons' outside of the remit of the other Competent Authorities.

Supervision

The AMLCU is responsible for authorisation, registration and compliance monitoring in respect of a wide range of businesses operating in several different sectors, including:

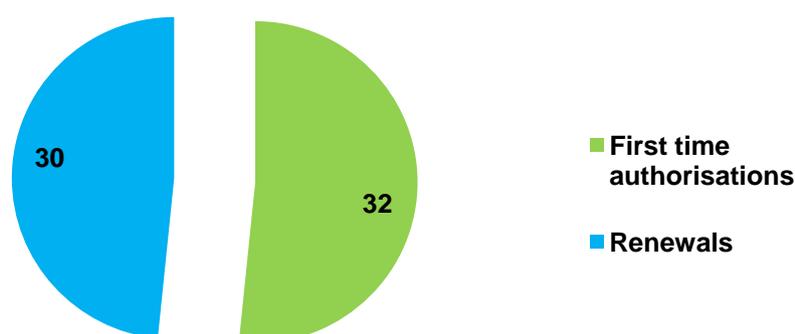
- Trust or Company Service Providers (TCSPs),
- Persons trading in goods for cash values of €15,000 or more (High Value Goods Dealers (HVGDs),
- Tax Advisers and External Accountants who are not already supervised by a competent authority and
- Private Members' Clubs (PMCs)⁵ where gambling activities are carried on.

⁵ AMLCU registers Private Member's Clubs at which gambling activities are carried on, but only in respect of those gambling activities.

Authorisations for Trust or Company Service Providers

The Minister for Justice and Equality, through AMLCU, issued a total of 62 TCSP authorisations in 2014 comprising 32 new authorisations and 30 renewals of authorisations. At the end of the reporting period a total of 336 TCSPs were recorded as having been authorised.

Figure 4: Authorisations for Trust or Company Service Providers



In one instance an application for authorisation was refused by the AMLCU on the basis that the applicant had failed repeatedly to engage with the Unit in providing information necessary for the application process. The applicant appealed the decision to refuse their application and an appeal hearing took place before the end of the reporting period.

During 2014, the Minister revoked authorizations previously granted to 6 entities to carry out TCSP activities in Ireland. Three of the revocations were made at the request of the authorised entities as they were no longer acting as TCSPs. The remaining revocations related to the entities failing to commence or engage in business as a TCSP.

Registration of Private Members' Clubs

During 2014 some 9 PMCs registered with the Unit for the first time. At the end of the reporting period a total of 44 PMCs were recorded as having registered.

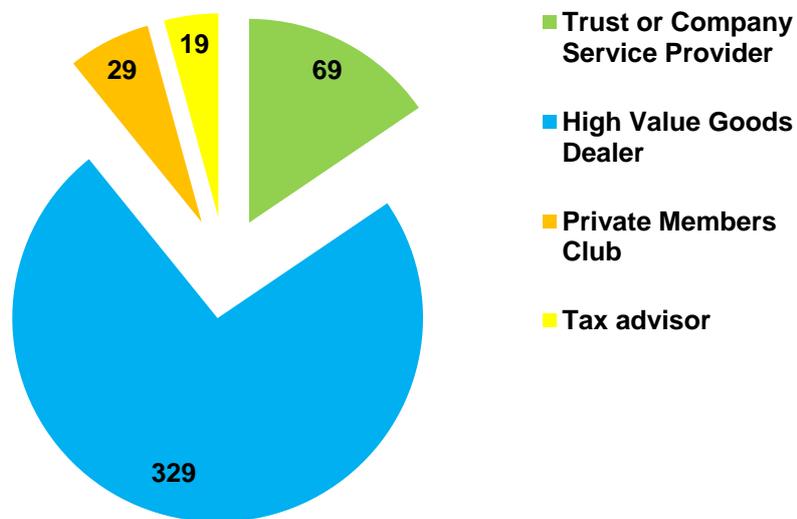
Table 2: Registration of Private Members' Clubs

| Category | Number |
|---------------------------------|--------|
| First time registrations | 9 |
| Total number of registered PMCs | 44 |

Compliance inspections

In 2014, a total of 446 inspections were conducted covering all sectors within the remit of the State Competent Authority.

Figure 5: Compliance inspections



Directions

Directions⁶ were issued by the AMLCU to 4 businesses compelling them to engage in or cease a specific conduct for the purposes of complying with the State's anti-money laundering /counter terrorist financing legislation (see Section 2). Directions are issued by the Unit's Authorised Officers after repeated inspections show that a 'designated person' has failed to comply with their requirements under the 2010 and 2013 Acts. Failure to implement a Direction can result in prosecution. In this regard, one designated person was reported to An Garda Síochána in 2014 for failing to comply with a Direction issued by the Unit. This case was under investigation at the end of the reporting period.

⁶ Directions are issued under Section 71 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended by Section 14 of the Criminal Justice Act 2013.