

Ireland's Implementation Plan to Tackle Economic Crime and Corruption

The Irish Government has recently published its Implementation Plan in respect of its review of structures and strategies to prevent, investigate and penalise economic crime and corruption.

Separately, the Joint Committee on Enterprise, Trade and Employment also published its report on the draft General Scheme of Companies (Corporate Enforcement Authority) Bill 2018. This is a further step towards the passing of new legislation to set up an independent Corporate Enforcement Authority which is intended to replace the existing Office of the Director of Corporate Enforcement.

The Implementation Plan follows on from the recommendations in the Report of the Review Group on Anti-Fraud and Anti-Corruption from December 2020 (the "Hamilton Report") and is part of the Irish Government's "White Collar Crime package" of measures to enhance Ireland's ability to combat corporate, economic and regulatory crime, which was originally published in November 2017.

The Government's plans are certainly ambitious in identifying 22 headline actions to be completed across government departments over the course of the next 18 months. The actions to be completed are grouped under three themes: Structural / Systematic, Resourcing and Legislative. Some of the key steps to be implemented under each theme are as follows:

Structural / Systematic

- In response to the recommendations of the Hamilton Report, the establishment of a

cross-sectoral Advisory Council against Economic Crime and Corruption which will advise on and develop a strategy on combatting economic crime and corruption.

- The establishment of a forum of senior representatives from relevant bodies, including the Garda National Economic Crime Bureau, the Central Bank of Ireland, the Office of the Director of Corporate Enforcement and Revenue.

Resourcing

- The implementation of continuous joint training for investigators of economic crime and corruption.
- The development of judicial training in complex economic crime cases and possible judicial specialisation in the area.
- A review of the resources of the Office of the Director of Public Prosecutions to support the prosecution of financial crime.

Legislative Recommendations

- Inserting a standard of recklessness into fraud offences which would widen the behaviours captured and enhance the prosecution of fraud offences.
- Extending statutory powers of surveillance to more regulatory bodies, such as the Office of the Director of Corporate Enforcement and the Competition and Consumer Protection Commission.
- Providing for a stand-alone search warrant which allow members of An Garda Síochána (the Irish Police) to require persons to provide passwords to electronic devices when carrying out searches.

- A review of legislation to facilitate the exchange of information between investigative agencies.
- Amending competition law to provide for the creation of a specific bid-rigging offence under competition law and the collation of public procurement data to detect bid-rigging.

Key Take-away

As the Hamilton Report observed, although Ireland is a relatively small country with a population approaching five million, it is the fifth largest provider of wholesale financial services in the EU with more than 400 international financial institutions located here. While it said that significant progress had been made to enhance Ireland's ability to tackle economic and regulatory crime, much remained to be done and the vulnerability of the financial services sector to economic crime and corruption could not be over-emphasised.

The Implementation Plan represents a clear roadmap to further enhance the capacities of relevant agencies and departments in combatting economic crime and corruption. While it is ambitious in its timeline for implementation, even if not all of the headline actions can be achieved within the tight timeframes, significant and wide-ranging structural and legislative reform can be expected in this area over the next 12 - 18 months.

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May 2021

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