BANKING REGULATION

Ireland

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Getting The Deal Through

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Banking Regulation

Consulting editors

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Quick reference guide enabling side-by-side comparison of local insights, including into the legal and regulatory framework; supervision and enforcement; resolution; capital requirements; ownership restrictions and implications; changes in control; and recent trends.

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REGULATORY FRAMEWORK

Key policies

What are the principal governmental and regulatory policies that govern the banking sector?

The governmental body with primary responsibility for regulating the Irish banking sector is the Central Bank of Ireland (CBI). The mission of the CBI is to safeguard monetary and financial stability by working to ensure that the financial system operates in the best interests of consumers and the wider economy. The CBI's statutory objectives include:

- price stability;
- the stability of the overall financial system;
- the resolution of financial difficulties in banks and other regulated entities;
- the proper and effective regulation of financial service providers and markets (while ensuring consumer protection); and
- the efficient and effective operation of payment and settlement systems.

Following the introduction of the Single Supervisory Mechanism (SSM) on 4 November 2014, the European Central Bank (ECB) became the competent authority for supervising banks that operate in Ireland. Where a bank is designated as significant, it is supervised directly by the ECB, while banks designated as less significant are directly supervised by the CBI. However, the ECB has the power to issue guidelines or instructions to the CBI and to take over direct supervision of any less significant bank if necessary.

The following six Irish banks and banking groups are currently designated as significant:

- AIB Group plc;
- Bank of America Europe DAC;
- Bank of Ireland Group plc;
- Barclays Bank Ireland plc;
- Citibank Holdings Ireland Limited; and
- Ulster Bank Ireland DAC.

Law stated - 10 January 2022

Regulated institutions

What are the defining characteristics of a bank to be caught by the banking laws and regulations? Is non-bank fintech regulated differently?

Unless a person is a holder of a banking licence inside or outside Ireland pursuant to section 7(1) of the Central Bank Act 1971 (as amended), that person cannot do any of the following:

- carry on banking business;
- represent or hold him or herself out as a banker;
- represent or hold him or herself out as carrying on banking business; and
- accept deposits or other repayable funds from the public.

Banking business is defined in section 2(1) of the Central Bank Act 1971 (as amended) as any business that consists of or includes:

- receiving money on the person's own account from members of the public, either on deposit or as repayable funds; and
- the granting of credit on own account.

The definition lists activities specifically excluded from the definition of banking business.

The primary activity that requires entities to be authorised as banks in Ireland is deposit-taking.

A person carrying on business is deemed to hold him or herself out as a banker if the name of the body or business includes any of the words 'bank', 'banker' or 'banking', or any analogous words.

Whether a fintech entity is regulated will depend on the service it provides. Where any entity is providing regulated services in Ireland, that entity will be subject to regulation by the CBI.

Law stated - 10 January 2022

Do the rules vary depending on the size or complexity of the banking institution?

From a supervisory perspective, where a bank is designated as significant by the ECB, it is supervised directly by the ECB. Banks designated as less significant are directly supervised by the CBI in the first instance. The determination of whether a bank is designated as significant or less significant is made in accordance with rules issued by the CBI.

Irish law does not distinguish between retail and wholesale or investment banking. Banks are not permitted to engage in any lines of business that have not been approved by the CBI or the ECB during the authorisation process.

Law stated - 10 January 2022

Primary and secondary legislation

Summarise the primary statutes and regulations that govern the banking industry.

Legislation

The primary legislation applicable to banks in Ireland are:

- the Central Bank Acts 1942–2018 (the Central Bank Acts);
- the European Union (Capital Requirements) Regulations 2014–2020, the European Union (Capital Requirements) (No. 2) Regulations 2014–2020 and the European Union (Capital Requirements) (Amendment) (No. 3) Regulations 2021 (the Irish Capital Regulations);
- Directive (EU) 2013/36 (the Capital Requirements Directive (CRD) IV) as amended by Directive (EU) 2019/878 and as last amended by Directive (EU) 2021/338 (CRD V) (collectively, CRD);
- Regulation (EU) 575/2013 as amended by Regulation (EU) 2019/876 and Regulation (EU) 2020/873 (the Capital Requirements Regulation (CRR));
- the Consumer Credit Act 1995 (as amended); and
- the Criminal Justice (Money Laundering and Terrorist Financing) Acts 2010–2021 implementing the EU Money Laundering Directives. The Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021 was enacted in 2021, transposing Directive (EU) 2018/843/ (the Fifth EU Anti-Money Laundering Directive).

Banks are also subject to a range of secondary legislation and codes issued under the Central Bank Acts including the Consumer Protection Code (CPC) and the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-sized Enterprises) Regulations 2015 (as amended) (the SME Regulations).

Consumer protection

Banks that provide products to consumers and small to medium-sized enterprises (SMEs) are subject to various codes and regulations issued by the CBI to ensure a consistent level of protection for consumers and SMEs through the provision of transparent information and guidelines for dealing with distressed customers. Among the more important consumer-based legislation, regulations and codes are the CPC, the Code of Conduct on Mortgage Arrears (CCMA) and the SME Regulations.

Minimum competency

The CBI's Minimum Competency Code 2017 and the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) Minimum Competency Regulations 2017 set out minimum competency standards applicable to the staff of regulated firms (including banks) who exercise specified functions in relation to specified financial products and services.

Fitness and probity

The CBI has put in place its Fitness and Probity Regime that applies to individuals performing prescribed roles in regulated firms, including banks. These roles are referred to in the legislation as 'controlled functions' or 'pre-approval controlled functions'. The purpose of the Fitness and Probity Regime is to ensure that persons performing these important roles are sufficiently capable and of good character. Banks are therefore required to ensure that those persons:

- are competent and capable;
- act honestly, ethically and with integrity; and
- are financially sound.

Before appointing an individual to a pre-approved controlled function, CBI approval must be obtained. Pre-approval functions in banks include board directors, the chief operating officer, the heads of control functions, and the heads of finance, retail sales, treasury, asset and liability management, and credit. With effect from October 2020, the head of market risk, the head of material business line and the chief information officer were added to the list of pre-approval functions for banks.

On 22 September 2021, the CBI issued a notice of intention to amend the list of pre-approval functions to include branch managers in countries outside the European Economic Area (EEA) and include stand-alone pre-approval controlled functions for independent non-executive directors and the head of anti-money laundering (AML) and countering the financing of terrorism (CFT) respectively. The proposed changes have not yet been written into law as at January 2022.

The assessment of the fitness and probity of the management board of banks applying for authorisation, and of members of the management board and key function holders of banks designated as significant institutions pursuant to the SSM, is the responsibility of the ECB.

As part of fitness and probity assessments, regard must be had to the revised Guidelines on the Assessment of the Suitability of Members of the Management Body and Key Function Holders, jointly issued by the European Banking Authority (EBA) and the European Securities and Markets Authority, which came into force on 31 December 2021. A person wishing to hold a position on the management board of a bank or wishing to become a key function holder in a bank must complete an individual questionnaire and submit it to the CBI.

Corporate governance

All banks authorised in Ireland are subject to minimum corporate governance standards as set out in the CBI's Corporate Governance Code for Credit Institutions 2015 (the Code). Additional requirements set out in the Code apply to banks designated as 'high impact' by the CBI. All banks are required to submit an annual compliance statement to the CBI specifying whether they have complied with the requirements of the Code.

Banks deemed as significant institutions for the purposes of the CRR are required to comply with certain requirements of those regulations relating to limitations on the number of directorships and sub-committees of the board instead of the requirements in the Code that deal with the same matters.

Banks are also required to comply with the EBA Guidelines on Internal Governance under CRD IV and the EBA Guidelines on the Assessment of Suitability of Members of the Management Body and Key Function Holders, each of which came into force on 31 December 2021, replacing earlier versions of the guidelines.

Company law

Banks established as companies under Irish company law are subject to the Companies Act 2014 (as amended) (the Companies Act). Directors of banks incorporated as Irish companies have statutory duties under the Companies Act. There is also a significant body of jurisprudence that sets out common law duties on directors.

AML and CFT

The Criminal Justice (Money Laundering and Terrorist Financing) Acts 2010 to 2021 ensure Irish AML and CFT is in line with the requirements of Directive (EC) 2005/60 (the Third EU Anti-Money Laundering Directive), Directive (EU) 2015/849 (the Fourth EU Anti-Money Laundering Directive) and the Fifth EU Anti-Money Laundering Directive. As required by article 30(1) of the Fourth EU Anti-Money Laundering Directive, a central register of beneficial ownership of corporate entities has been established and is maintained by the Companies Registration Office. The CBI published updated AML and CFT Guidelines for the financial sector on 23 June 2021. These guidelines outline the expectations of the CBI regarding banks' compliance with their AML obligations, and include a detailed analysis around risk management, customer due diligence requirements, reporting obligations and integral governance and training. The revised guidelines account for the Fifth EU Anti-Money Laundering Directive and set out further expectations for banks in respect of customer protection via de-risking, beneficial ownership identification and verification as well as transaction monitoring.

Law stated - 10 January 2022

Regulatory authorities

Which regulatory authorities are primarily responsible for overseeing banks?

The regulatory authority responsible for overseeing banks in Ireland is the ECB. Banks designated as significant are supervised by a team led by the ECB, comprising members from the ECB and the CBI. Banks designated as less significant are directly supervised by the CBI in the first instance, but the ECB has the power to issue guidelines or instructions to the CBI and to take over direct supervision of any less significant bank if necessary.

The CBI operates its Probability Risk and Impact System (PRISM). PRISM is designed to determine the risk and potential impact of banks on financial stability and consumers in a consistent systemic risk-based manner. Under the framework of PRISM, banks are categorised as ‘high impact’, ‘medium-high impact’, ‘medium-low impact’ or ‘low impact’. The category into which a bank falls will determine the number of supervisors allocated to that bank and the level of supervisory scrutiny to which it will be subject.

Law stated - 10 January 2022

Government deposit insurance

Describe the extent to which deposits are insured by the government. Describe the extent to which the government has taken an ownership interest in the banking sector and intends to maintain, increase or decrease that interest.

The state’s Deposit Guarantee Scheme (DGS) is overseen and administered by the CBI. It provides protection for eligible depositors of a bank if that entity is unable to repay its deposits. The protection is limited to €100,000 per person per institution, and relates to the balances in various types of accounts comprising current accounts, deposit accounts and share accounts in banks and building societies. The DGS covers deposits in the names of individuals, sole traders, partnerships, clubs, associations, schools, charities, companies, small self-administered pensions, trust funds and other monies held by professional service providers on behalf of their clients. However, deposits by banks, credit unions, building societies, investment firms, pension schemes, financial institutions and other regulated entities are not covered by the DGS. Securities issued by a bank are not subject to the DGS.

Between 2008 and 2010, the Irish state took significant ownership interests in Anglo Irish Bank (AIB), Bank of Ireland and Permanent TSB. AIB (now Irish Bank Resolution Corporation Limited (in Special Liquidation) (IBRC)) was nationalised. IBRC is now being wound up. The state’s current interests are as follows: AIB (71 per cent), Bank of Ireland (9.3 per cent) and Permanent TSB (75 per cent).

Law stated - 10 January 2022

Transactions between affiliates

Which legal and regulatory limitations apply to transactions between a bank and its affiliates? What constitutes an ‘affiliate’ for this purpose? Briefly describe the range of permissible and prohibited activities for financial institutions and whether there have been any changes to how those activities are classified.

To guard against abuses in lending to related parties the CBI issued the Code of Practice on Lending to Related Parties (the RPL Code), which applies to banks incorporated in Ireland and licensed under the Central Bank Acts. It does not apply to banks incorporated in other EEA member states who conduct their business in Ireland on a branch or services basis.

If the RPL Code is breached, the CBI may impose administrative sanctions or pursue criminal prosecutions.

The RPL Code defines a ‘related party’ as a director, a senior manager or a significant shareholder of the bank or an entity in which the bank has a significant shareholding, as well as a connected person of any of the foregoing. A ‘connected person’ is also defined in the RPL Code and includes spouses, partners, children and closely related natural or legal persons that do not constitute a single risk as provided in the RPL Code.

The RPL Code prohibits Irish banks from granting loans to related parties on more favourable terms than loans provided by a bank to a non-related party. Subject to the terms of the RPL Code, an exemption is permitted for beneficial terms that are part of a remuneration package available to the bank's staff generally. Loans to related parties must be individually approved by the board of the bank (or a sub-committee of that board) prior to the grant of the loan or the decisions regarding the management of those loans. Loans in excess of €1 million are subject to the prior approval of the CBI. The bank must have specific policies and procedures in place to cover lending to related parties.

Law stated - 10 January 2022

Regulatory challenges

What are the principal regulatory challenges facing the banking industry?

The CBI issues an annual financial stability review to establish the main risks that face the Irish financial system and to assess the resilience of the financial system to those risks. Due to the unique circumstances of the Irish and global economy in 2021, the CBI has issued two financial stability reviews per year since the onset of the covid-19 pandemic. The November 2021 review identified the current primary sources of risk to Irish financial stability, identified as including:

- an abrupt tightening of global financial conditions accompanied by a repricing of risk premia;
- a diverging global economic recovery and rising inflation amid higher levels of international indebtedness;
- structural changes in the international tax and trade environment; and
- the potential for capacity constraints and price pressures to intensify in certain domestic sectors such as real estate markets.

In addition to the above, some of the key regulatory themes and developments in Ireland applicable to banks are set out below.

Covid-19

In the context of the CBI's role to ensure the stability of the financial system and the protection of consumers since the onset of the covid-19 pandemic, the CBI has requested that banks take a consumer-focused approach to act in their customers' best interests. Measures that the Irish banks have adopted include short term payment breaks, modification of reporting classifications for the Central Credit Register, the use of capital buffers in line with SSM announcements, and restrictions on dividends and share buy-backs. The ongoing fluid development of the economic and public health challenges arising in connection with the covid-19 pandemic will necessitate an active and ongoing management by the CBI of the Irish banks during 2022.

Brexit

Brexit and its consequences will remain a key area of focus for Irish banks and the CBI, with regulatory perimeter issues coming under increased scrutiny, along with outsourcing arrangements, reverse solicitation and chaperoning. The CBI, prior the end of the transition period, instructed banks to have contingency plans to ensure business continuity in light of Brexit-related challenges.

Outsourcing

The current and expected level of reliance of banks on outsourcing arrangements to deliver their products and services across the financial services industry increased the CBI's focus on outsourcing-related risk. The CBI required the implementation of appropriate governance structures, robust risk management and business continuity processes to ensure that banks can effectively monitor, manage and mitigate the risks presented by outsourcing. On 17 December 2021, the CBI published its Cross-Industry Guidance Paper on Outsourcing (the Paper), which is intended to complement existing laws, regulations and guidelines on the topic, following on from the CBI's Outsourcing – Findings and Issues for Discussion paper published in November 2018. The CBI has placed an enhanced focus on the outsourcing of critical or important functions. These guidelines include an assessment of the following key risks:

- data security risks, particularly in respect of sensitive data;
- oversight risks related to the use of sub- or chain outsourcing;
- challenges in respect of adequate supervision and oversight in situations where outsourcing is offshored; and
- increased levels of concentration risk, especially regarding cloud outsourcing.

IT and cybersecurity risks

In September 2016, the CBI issued cross-industry guidance in relation to IT and cybersecurity governance and risk management. IT and cybersecurity risks are a key concern for the CBI given their potential impact on firms and their customers, and the risks for financial stability. In the context of the ongoing covid-19 pandemic, the CBI has also recognised the increased threat posed by financial crime due to the modifications to living and working brought about by covid-19. The CBI has intensified interactions with institutions to assess new risks that arise from financial crime and to plan for how to mitigate these new risks. Furthermore, when relying on outsourcing service providers of IT services, the outsourcing requirements set out in the CBI's Cross-Industry Guidance in respect of Information Technology and Cybersecurity Risks must also be taken into account.

Mortgage arrears

Mortgage arrears have been and continue to be a priority of the CBI since the 2008 financial crisis. The CBI closely monitors compliance with the treatment of mortgage borrowers in arrears, and works to encourage banks and other loan owners to put in place long-term sustainable restructuring arrangements. The CBI also subjects all new non-bank mortgage owners to authorisation and supervision.

AML and CFT

Risks related to AML compliance is an area that is under constant review by the CBI. The CBI has issued fines to a number of institutions for failures in their AML compliance obligations.

Remuneration

Banks in Ireland are required to comply with the remuneration requirements set out in the Irish legislation implementing the CRD V, the remuneration disclosure requirements set out in the CRR and the relevant EBA guidelines. On 2 July 2021, the EBA issued further guidelines on sound remuneration policies that took effect from 31 December 2021. A bank's remuneration policy must promote sound and effective risk management, and must not encourage risk-taking that exceeds the bank's level of tolerated risk. The policy must apply to all staff whose professional activities have a material impact on the risk profile of the bank, including senior management, risk-takers, staff engaged in control functions and any employees whose total remuneration takes them into the same pay bracket as senior management and risk-takers. A bank's policy must be gender neutral and ensure that all staff are paid equally for equal work of equal value. The bank's policy must now also be consistent with its environmental, social and governance (ESG) objectives.

Staff in control functions are required to be remunerated in accordance with the achievement of objectives linked to their functions that are independent of the performance of the business areas they control. Variable elements of remuneration must be based on an assessment of performance over a multi-year period, with payments spread over a period that takes account of the business cycle. The variable component of remuneration for each individual is generally not permitted to exceed 100 per cent of the fixed component and must be subject to clawback arrangements. When granting retention bonuses, a bank must now document the justification for each individual bonus and also define the applicable performance conditions that were considered in advance of the granting of any such bonus.

Law stated - 10 January 2022

Consumer protection

Are banks subject to consumer protection rules?

Banks in Ireland are subject to various consumer protection codes and regulations including the following.

- The CPC contains a set of general principles for dealing with customers, including guidance on a number of areas such as advertising and dealing with distressed borrowers.
- The CCMA governs how mortgage lenders and entities regulated as credit servicers treat borrowers in or facing mortgage arrears where a mortgage loan is secured by the borrower's primary residence. The CCMA specifies arrangements regarding borrowers that are in arrears, including how they are to be communicated with, the assessment of their financial position, how repossessions are to be conducted and information to be provided to borrowers.
- The SME Regulations distinguish between micro- and small enterprises (turnover of less than €10 million) and medium-sized enterprises (turnover of less than €50 million), with more robust rules for micro- and small enterprises. The SME Regulations set out conduct of business parameters, the nature and content of information to be provided to SMEs, and how to deal with SMEs in financial difficulty.

In addition to the above codes and regulations, there are numerous pieces of legislation that provide for consumer protections (including specifying certain form and content requirements), such as the Consumer Credit Act 1995 (as amended), the European Union (Consumer Credit Agreements) Regulations 2010 and the European Union (Consumer Mortgage Credit Agreements) Regulations 2016. In addition, banks in Ireland are required to ensure that their contract terms are fair for the purpose of the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 and 2000.

Law stated - 10 January 2022

Future changes

In what ways do you anticipate the legal and regulatory policy changing over the next few years?

Brexit

Following the exit of the United Kingdom from the European Union, the CBI has been continuing to work with Irish banks to identify and mitigate the issues arising from the impact of Brexit. In the CBI's November 2021 financial stability review, it noted that the CBI has taken action to mitigate the most material and prominent risks to the provision of cross-border financial services between the European Union and the United Kingdom. The macroeconomic impact of a trading arrangement after the Brexit transition period represents the main source of risk to the financial system as a whole. The effects of the covid-19 pandemic coupled with Brexit augments the potential downside of economic risks to the overall economic outlook, as its impact differs by region and sector. The domestic banking system also has significant lending exposures to the United Kingdom, providing a direct transmission channel for the impact of Brexit on the balance sheets of Irish retail banks.

Sustainable finance

Sustainable finance has risen up the regulatory agenda. The CBI expects banks to play a key role in financing the transition of the economy to a more sustainable form. The CBI works closely with the EBA on its Sustainable Finance Action Plan and, in particular, its work on incorporating ESG risks in the supervisory and evaluation process, enhancing ESG risk disclosures and considering whether a dedicated prudential treatment of exposures related to assets or activities associated with environmental or social objection (or both) is justified.

On 21 April 2021, the European Commission published its proposed changes to the sustainability reporting requirements applicable to credit institutions in the form of a proposed new Corporate Sustainability Reporting Directive (CSRD). The CSRD will amend the existing reporting requirements under the Non-Financial Reporting Directive (NFRD), which are currently applicable to Irish banks. The CSRD seeks to expand the scope of the NFRD's requirements and introduces more detailed reporting requirements, including the requirement for ESG reports to be audited. It also aligns reporting standards with mandatory EU sustainability reporting standards.

On 3 November 2021, the CBI issued a 'Dear CEO Letter' to all regulated financial service providers that emphasised the need for boards of regulated firms (including banks) to show clear ownership of ESG risks and to promote cultural awareness of the same within their organisations. The CBI also highlighted the importance of the need for existing risk management frameworks to be enhanced to identify climate-related risks.

Technological innovation

The CBI has stated its intention to focus on technological innovation – including big data and algorithms – to assess the risks posed by the inappropriate use of technology and information asymmetries between firms and customers. The covid-19 pandemic has increased the pace of this technological development, including developments around digitalisation, cloud technology and blockchain. In the area of payments, there has been an acceleration of digital transformation, with a surge in online transactions and contactless payments. In addition to consumer protection, there is an increased focus on the ability of banks to limit the impacts of technology failures and cyberattacks.

Individual accountability

The CBI's increased focus on culture in regulated firms in recent years and its experience with the tracker mortgage investigation has led to it advocating legislative change to assign regulatory responsibility to individuals working in regulated entities. In a report issued in July 2018 titled 'Behaviour and Culture of the Irish Retail Banks', the CBI recommended reforms to establish a new Individual Accountability Framework. On 27 July 2021, the Central Bank (Individual Accountability Framework) Bill 2021 was published by the Irish government. Once this bill is enacted, the CBI intends to undertake a public consultation in respect of the implementation of the four elements of the Individual Accountability Framework, which will consist of the following distinct but complementary elements:

- new conduct standards;
- the Senior Executive Accountability Regime (SEAR);

- enhancements to the existing Fitness and Probity Regime; and
- changes to the CBI's enforcement investigations and enquiries process.

The new conduct standards will set out the behaviour that the CBI expects of regulated firms and the individuals working within them. Three sets of standards are proposed:

- common standards for all staff in regulated financial services providers;
- additional conduct standards for senior management; and
- standards for businesses.

Common standards required of all staff will include requirements to act with due care and diligence, and to act honestly, ethically and with integrity in the best interests of customers. Members of senior management are expected to take all reasonable steps to ensure that the business is controlled effectively, delegated tasks are overseen effectively and relevant information is promptly disclosed to the CBI.

The senior executive functions within the scope of the SEAR are board members, executives reporting directly to the board and heads of critical business areas. Each senior executive function will have prescribed responsibilities inherent to the role. The intention is that all key conduct and prudential risks will be assigned to one or more of the senior executive functions and will, therefore, be the responsibility of the relevant individual holding the role.

The CBI will also strengthen its existing Fitness and Probity Regime. Most significantly, firms will be required to certify, on an annual basis, that the individuals performing prescribed controlled functions within the firm are fit and proper to do so. Currently, the CBI can only pursue an individual concerned in the management of a firm in cases where:

- a case has first been proven against the firm; and
- the CBI can prove that the individual participated in a breach by the firm.

It is also proposed that a breach of the new conduct standards will be grounds for direct enforcement action.

Implementation of CRD V

The CBI will need to update its guidance and policies in light of the revised capital requirements provided for in the CRD V. On 27 October 2021, the European Commission adopted a review of the CRR and the CRD. The intention of the proposed amendments is to assist the region's recovery from covid-19 and to ensure that banks are more resilient to future economic shocks. These proposals focus on implementing the Basel III agreement, increasing sustainability risk management for banks and providing stronger enforcement tools for supervisors of EU banks. The CBI has yet to issue any guidance on these proposals.

Law stated - 10 January 2022

SUPERVISION

Extent of oversight

How are banks supervised by their regulatory authorities? How often do these examinations occur and how extensive are they?

Banks designated as significant for the purposes of the Single Supervisory Mechanism (SSM) by the European Central Bank (ECB) are directly supervised by joint supervisory teams (JSTs) made up of staff from both the ECB and the Central Bank of Ireland (CBI) that have overall responsibility for the day-to-day supervision of significant banks. The SSM takes a risk-based approach to supervision, and day-to-day supervision by the JSTs involves interaction with banks and oversight of their activities.

Banks designated as less significant are supervised directly, on a day-to-day basis, by the CBI (with ECB oversight). The CBI carries out in-depth on-site inspections of individual risk areas, risk controls and governance. Its day-to-day supervisory activities in respect of banks include, among other matters, the ongoing assessment of the bank's risk profile, and its solvency, liquidity and recovery planning.

The CBI's Probability Risk and Impact System will determine the number of supervisors allocated to a bank and the level of supervisory scrutiny to which it will be subject.

In addition to the CBI, Irish banks are subject to the oversight of certain other regulatory authorities, including:

- the Data Protection Commission, which has responsibility for the enforcement of data protection legislation;
- the Financial Services and Pensions Ombudsman, which has responsibility for resolution of consumer complaints; and
- the Competition and Consumer Protection Commission, which is the statutory body responsible for the enforcement of consumer complaints and merger control.

Banks have various reporting requirements. Prudential reporting is done quarterly.

Law stated - 10 January 2022

Enforcement

How do the regulatory authorities enforce banking laws and regulations?

Failure of a bank to comply with its obligations may result in it being subject to sanction. The CBI has the power to impose significant monetary penalties on banks and also persons concerned in their management through the administrative sanction procedure. Since the commencement of the Central Bank (Supervision and Enforcement) Act 2013 (the 2013 Act), the CBI's powers and range of sanctions in this regard have been strengthened significantly. The maximum fine for a firm is €10 million or 10 per cent of turnover, while the fine for persons concerned in the management of the firm is €1 million.

Part IIIC of the Central Bank Act 1942 (as amended) (the 1942 Act) provides the CBI with the power to administer sanctions for prescribed contraventions by banks and persons presently or formerly concerned in their management who have participated in the prescribed contraventions (each an 'in-scope person'). A prescribed contravention includes a breach of a provision of financial services legislation (or of a condition or requirement imposed pursuant to that legislation) or a breach of a code made under that financial services legislation. Sanctions can be imposed by the CBI, under its Administrative Sanctions Procedure, on all in-scope persons. The 1942 Act provides that, where it is suspected that a prescribed contravention has occurred, the CBI may enter into a settlement agreement with the in-scope person to resolve the matter. Where the CBI suspects that a prescribed contravention is ongoing and has not been resolved, the CBI can refer the matter to an inquiry for further investigation.

The range of sanctions (in addition to the monetary penalties) that can be imposed includes:

- a caution or reprimand;
- a direction to refund or withhold all or part of the money charged or paid, or to be charged or paid, for the

provision of a financial service by a regulated financial service provider;
- the submission of a proposal to the ECB to suspend or revoke the authorisation of that regulated financial service provider;
- in the case of a natural person, a direction disqualifying the person from being concerned in the management of a regulated financial service provider for a prescribed period of time;
- a direction to cease a contravention if it is found that the contravention is continuing; and
- a direction to pay the CBI all or part of the costs incurred by the CBI in holding an inquiry and in investigating the matter to which the inquiry relates.

The 2013 Act provides the CBI with the power to direct banks to make redress to affected customers where such banks have committed widespread and regular breaches that have caused loss or damage to their customers. Under the 2013 Act, a bank's customers have the right to take action against the relevant bank for any loss or damage suffered by that customer as a result of the bank's breach of applicable Irish financial services legislation.

The CBI also has the ability to undertake fitness and probity investigations, issue directions, impose conditions and make reports to other state agencies.

The ECB can take direct enforcement and sanctions proceedings against banks designated as significant and can instruct the CBI to use its supervisory powers or to open proceedings against banks operating in Ireland.

Law stated - 10 January 2022

What are the most common enforcement issues and how have they been addressed by the regulators and the banks?

The most high-profile enforcement issue dealt with by the CBI over the last several years was the tracker mortgage examination.

The CBI's tracker mortgage examination covered all lenders that offered tracker mortgages to customers, including mortgages used for family homes or investment properties. Following the lowering by the ECB of its main borrowing interest rate, tracker loans became much less profitable for banks compared with other products. Certain tracker customers switched to a fixed-rate mortgage for a period on the understanding that they would return to the original tracker rate but were, in many instances, prevented from doing so by the banks. This practice contributed to additional financial pressures being incurred by borrowers and, in some instances, led to family homes being repossessed.

In 2015, the CBI carried out a review of mortgage products tracking the ECB rate. The supervisory phase of the examination concluded in July 2019, at which point over 40,100 customers were identified as having been affected, and over €680 million has since been paid by lenders in redress and compensation. The CBI's enforcement investigations are continuing and further significant fines are anticipated. Most recently, in March 2021, a bank operating in Ireland was fined €37.8 million for regulatory breaches that affected tracker mortgage customer accounts.

On 30 November 2021, Bank of Ireland was fined €24.5 million for failing to ensure that it had an adequate framework in place to ensure continuity of service in the event of a significant IT disruption.

Other areas in which the CBI has issued fines since 2016 include:

- regulatory reporting breaches and related governance failings;
- breaches of the Code of Practice on Lending to Related Parties; and
- anti-money laundering and countering the financing of terrorism compliance failures.

Law stated - 10 January 2022

RESOLUTION

Government takeovers

In what circumstances may banks be taken over by the government or regulatory authorities? How frequent is this in practice? How are the interests of the various stakeholders treated?

Between 2008 and 2010, the Irish state took ownership interests in Anglo Irish Bank (AIB), Bank of Ireland, and Permanent TSB. AIB was taken into full state ownership and is now being wound up. Currently, the state has a 71 per cent interest in AIB, a 9.3 per cent interest in Bank of Ireland and a 75 per cent interest in Permanent TSB.

Directive (EU) 2014/59 (the Bank Recovery and Resolution Directive (BRRD) as amended by Directive (EU) 2017/2399 and Directive (EU) 2019/879) are relevant pieces of EU legislation. The Credit Institutions (Stabilisation) Act 2010 (the 2010 Act) and the Central Bank and Credit Institutions (Resolution) Act 2011 (the 2011 Act) enabled the creation of various orders to facilitate the resolution of distressed Irish banks. The 2010 Act is no longer in force. The 2011 Act has been largely superseded by the European Union (Bank Recovery and Resolution) Regulations 2015 to 2020 (the BRRD Regulations), which transposed the above EU directives into Irish law. The Central Bank of Ireland (CBI) document titled ‘Approach to Resolution for Banks and Investment Firms’ provides a detailed insight into the CBI’s approach to the resolution of distressed banks.

The takeover by the Irish government of Irish banks is very rare.

The primary legislation governing the resolution of credit institutions in Ireland is the BRRD Regulations. The BRRD Regulations provide a framework for resolving failing banks and enables authorities to intervene early to prevent the failure of an institution. The BRRD Regulations framework:

- provides that banks are required to prepare recovery plans that identify options that can be executed in the event of a significant financial deterioration of the institution, thereby reducing the likelihood of failure;
- grants a set of early intervention powers to supervisors, including the requirement for institutions to execute recovery options, the removal of management and changing the structure of the institution; and
- provides for resolution planning activity to be undertaken by the CBI or the European Central Bank’s Single Resolution Board (SRB) in advance of failure to ensure that this process is managed effectively.

If required, the CBI and the SRB have at their disposal a set of resolution tools that can be used to resolve failing institutions to minimise the impact of failure on the financial system, the real economy, depositors and taxpayers. National and European resolution funds have been established to help finance the cost of resolutions in the future.

Under the BRRD Regulations, the CBI is the national resolution authority for Ireland. For banks designated as significant under the Single Supervisory Mechanism, the Single Resolution Mechanism divides the recovery and resolution tasks for those banks between the SRB and the CBI as the Irish national resolution authority. The SRB will exercise some of the powers that would otherwise be exercisable by the CBI under the BRRD Regulations if a significant Irish bank fails or begins to fail. It is a condition of using a resolution tool that there is no reasonable prospect that any alternative private sector measures or supervisory action would prevent the failure of the institution within a reasonable time frame, having regard to timing and other relevant circumstances.

A High Court order, on the application of the CBI, is required to apply any of the resolution tools to a bank or otherwise where the CBI wishes to have a liquidator appointed to an institution. This will be necessary irrespective of whether an institution is directly overseen by the CBI or the SRB. The CBI must engage with the Minister for Finance in certain situations, including making the proposed resolution order.

When resolution tools are put in place or resolution powers exercised, the bank's shareholders will bear first losses. Creditors generally bear losses after the shareholders in accordance with the priority of their respective claims under normal insolvency proceedings. Creditors of the same class are to be treated equally and the 'no creditor worse off' principle means that no creditor should incur losses greater than it would have incurred had the bank been wound up under normal insolvency proceedings. Covered deposits are also protected.

Once a resolution order is made, four resolution tools are available:

- bail-in;
- sale of business;
- bridge institutions; and
- asset separation.

To implement a resolution tool, the CBI is required to obtain a resolution order. A resolution order can cover a number of different transactions to give effect to the relevant resolution tool, including:

- the transfer of shares;
- the transfer of assets and liabilities;
- the reduction of principal under a capital instrument;
- the cancellation of debt instruments (other than secured liabilities);
- the close-out or termination of financial contracts; and
- the removal and replacement of management by a special manager.

Law stated - 10 January 2022

Bank failure

What is the role of the bank's management and directors in the case of a bank failure? Must banks have a resolution plan or similar document?

Regulation 40 of the BRRD Regulations provides for the removal of senior management if there is a significant deterioration of the financial position of an Irish bank, there are serious breaches of Irish law by the bank or its management body, or there are serious administrative irregularities. Where the CBI proposes to remove a senior manager, it is obliged to issue suspension notices on the relevant person pending the relevant issues being explored in more detail. It is also possible for senior management to be replaced temporarily through a temporary administration order. A resolution order may also appoint a special manager to replace the bank's management body.

Banks that are subject to the BRRD Regulations must have a recovery plan (to be updated annually) that sets out the measures to be taken by the bank to restore its financial position following a significant deterioration in its financial position. In addition, the CBI must prepare a resolution plan for each relevant bank. The resolution plan provides the options for applying resolution tools and powers to the relevant bank, if required.

Law stated - 10 January 2022

Are managers or directors personally liable in the case of a bank failure?

Managers and directors will not automatically have personal liability for the bank failure. However, this will very much depend on the directors' conduct and the role they played in the management of the bank prior to it getting into difficulty. Where managers and directors have breached financial services legislation, they may be subject to sanction. If they contravene the specific requirements of the BRRD Regulations – including the requirement to draw up recovery plans, provide information for resolution plans and notify the competent authority if the bank is failing or likely to fail – they will also be exposed to sanctions, which can include penalties of up to €5 million and criminal offences.

Directors are also subject to various duties and statutory obligations under Irish company law, a breach of which could result in the directors being subject to civil liability (including being disqualified or restricted from acting as directors) and possibly criminal liability.

Law stated - 10 January 2022

Planning exercises

Describe any resolution planning or similar exercises that banks are required to conduct.

Banks are required to update their recovery plans on an annual basis (at least). In addition, resolution plans are to be updated after any change to a bank's legal structure, organisational structure, business position or financial position that could have a material effect on, or necessitates a change to, the recovery plan. Updates are also required on written notice from the competent authority directing that a recovery plan be updated, which may be more than once per year.

Recovery plans must contemplate a range of scenarios of severe macroeconomic and financial stress relevant to the bank's specific conditions, including scenarios based on system-wide adverse conditions and adverse conditions specific to an individual bank or banking group. Recovery plans must also include conditions and procedures ensuring the timely implementation of recovery actions and options to restore the bank's financial position.

A resolution plan developed by the CBI shall set out the resolution actions that the CBI plans to take if the bank meets the conditions for resolution. The CBI, in preparing a resolution plan, shall identify any material impediments to resolvability and outline relevant actions for how those impediments could be addressed. Resolution plans are to be updated at least annually. A resolution plan must include (in summary) the following:

- a summary of the key elements of the plan;
- a summary of any material changes to the bank since the most recent resolution information was provided to the CBI by the bank;
- a demonstration of how any critical functions and core business lines could be legally and economically separated from other functions to ensure continuity upon the failure of the institution;
- a description of any measures required to address or remove impediments to resolvability;
- an explanation of how the resolution options could be financed;
- a detailed description of the different resolution strategies that could be applied under different scenarios and the time frame for the implementation of these strategies;
- an analysis of the impact on the employees; and
- a description of essential operations and systems, and plans for maintaining the continuous functioning of the institution's operational processes.

Law stated - 10 January 2022

CAPITAL REQUIREMENTS

Capital adequacy

Describe the legal and regulatory capital adequacy requirements for banks. Must banks make contingent capital arrangements?

The Capital Requirements Regulation (CRR), made up of Regulation (EU) 575/2013 as amended by Regulation (EU) 2019/876 (CRR II) and Regulation (EU) 2020/873, has direct effect in Ireland. The European Union (Capital Requirements) Regulations 2014–2020, the European Union (Capital Requirements) (No. 2) Regulations 2014–2020 and the European Union (Capital Requirements) (Amendment) (No. 3) Regulations 2021 transposed Directive (EU) 2013/36 (the Capital Requirements Directive (CRD) IV) as amended by Directive (EU) 2019/878 and as last amended by Directive (EU) 2021/338 (CRD V) (collectively, CRD) and certain elements of the CRR into Irish law.

Irish banks are obliged to maintain financial resources equal to or greater than a percentage of their risk weighted assets (RWA).

The own funds of an institution must at all times be in excess of the initial capital amount (currently €5 million) required at the time of its authorisation. Own funds' requirements need to be determined in line with credit risk, market risk, operational risk and settlement risk. The Irish banks are subject to the following capital requirements.

- The Pillar 1 requirement is a regulatory minimum amount of capital that the banks must hold. Banks are required to hold a total capital ratio of 8 per cent. A minimum of 4.5 per cent of RWA must be Common Equity Tier 1 and at least 6 per cent of RWAs should be met with Tier 1 capital. This Pillar 1 requirement applies to all banks uniformly.
- The Pillar 2 requirement is an additional capital requirement that applies on a case-by-case basis, subject to the supervisory review and evaluation process. Any additional capital required, by reference to Pillar 2, is specifically tailored to a bank's individual business model and risk profile. The CRD V requires that firms meet their Pillar 2 requirements with at least 75 per cent Tier 1 capital, of which 75 per cent must be Common Equity Tier 1 (reduced to 56.25 per cent due to the covid-19 pandemic).
- The combined buffer requirement: the CBI also applies the individual buffers provided for in the CRD IV, which are:
  - the capital conservation buffer, fixed at 2.5 per cent of a bank's total RWAs;
  - the global systemically important institution or other systemically important institution (O-SII) buffer, which is designed to ensure that systemically important financial institutions hold a higher level of capital to protect against the risks that they pose to the national financial system – the six banks regulated by the CBI are subject to the O-SII buffer ranging from 0.5 per cent to 1.5 per cent;
  - the counter-cyclical capital buffer, which is currently at zero per cent in Ireland and was reduced from 1 per cent in light of the impact of covid-19: the CBI stated in their November 2021 financial stability review that, if the current outlook for the economic recovery holds, a gradual rebuilding of the counter-cyclical capital buffer in 2022 can be expected; and
  - the systemic risk buffer – which is designed to mitigate long-term, non-cyclical risk that may have serious adverse consequences for the economy – has not yet been implemented in Ireland.

Irish banks are also subject to a 3 per cent leverage ratio.

Law stated - 10 January 2022

How are the capital adequacy guidelines enforced?

Irish authorised banks must comply with the prudential reporting requirements set out in the CRR II and the Implementing Technical Standard No. 680/2014 on Supervisory Reporting 9. All CRD regulatory returns must be made quarterly.

Law stated - 10 January 2022

Undercapitalisation

What happens in the event that a bank becomes undercapitalised?

If a bank is undercapitalised, the CBI will require that such an institution raises sufficient capital to ensure that it complies with its minimum capital requirements. If a bank does not continually meet its capital requirements, it can be subject to a number of sanctions, including fines.

Law stated - 10 January 2022

Insolvency

What are the legal and regulatory processes in the event that a bank becomes insolvent?

Under Part 7 of the Central Bank and Credit Institutions (Resolution) Act 2011 (the 2011 Act), the CBI can apply to the High Court for an order to liquidate a bank in any of the following circumstances:

- if the CBI believes that the liquidation would be in the public interest;
- the bank is unable to meet its obligations to its creditors;
- the bank has failed to comply with a direction of the CBI;
- the bank's licence or authorisation has been revoked; and
- the CBI considers that it is in the interest of deposit holders that it be wound up.

No person can apply to have a bank wound up without giving the CBI prior notice and receiving approval from the CBI. Only a liquidator approved by the CBI can wind up a bank. As soon as practicable after the court makes a winding-up order, the CBI will appoint a liquidation committee to oversee the winding-up process. Subject to the 2011 Act, the normal provisions of Irish company law apply to liquidations of banks.

Where a bank has a reasonable prospect of survival, the Companies Act 2014 (as amended) allows the CBI to petition to appoint an examiner to an Irish bank. Examinership is a process that enables arrangements to be made with creditors of a company in difficulty to facilitate its survival.

Notwithstanding the above, the CBI would most likely utilise the toolkit provided under the European Union (Bank Recovery and Resolution) Regulations 2015 to 2020 where an Irish bank is in financial difficulty.

Law stated - 10 January 2022

Recent and future changes

Have capital adequacy guidelines changed, or are they expected to change in the near future?

The CRD V and the CRR II include an overhaul of various capital and liquidity requirements. On 28 June 2021, the capital adequacy requirements for Irish banks changed by, amongst other things, increasing the amount and modifying the methodologies for calculation of the following ratios:

- the leverage ratio;
- the net stable funding ratio;
- requirements for own funds and eligible liabilities;
- counterparty credit risk;
- market risk;
- exposures to central counterparties;
- exposures to collective investment undertakings; and
- large exposures, and report and disclosure requirements.

Law stated - 10 January 2022

OWNERSHIP RESTRICTIONS AND IMPLICATIONS

Controlling interest

Describe the legal and regulatory limitations regarding the types of entities and individuals that may own a controlling interest in a bank (or non-bank). What constitutes 'control' for this purpose?

To acquire a controlling interest in an Irish bank, the potential acquirer needs to provide a notification to the Central Bank of Ireland (CBI), following which the CBI will conduct a detailed assessment of the proposed acquisition and the proposed acquirer. While individuals can acquire controlling interests in an Irish bank, the CBI prefers that an individual does not hold a dominant interest in a bank, that the shareholding of a bank is widely held, and that any proposed acquirer is financially sound and has the requisite reputation, knowledge and skill to hold the relevant interest in the target bank.

Rather than control, the CBI focuses on qualifying holdings in a bank, which is a direct or indirect holding in the bank that represents 10 per cent or more of the capital or of the voting rights. Otherwise, if less than 10 per cent, a qualifying holding is a holding that makes it possible to exercise a significant influence over the bank's management. Prior ownership experience of banks or other financial institutions will be an advantage in applying for the approval of an acquisition of a qualifying holding.

Law stated - 10 January 2022

Foreign ownership

Are there any restrictions on foreign ownership of banks (or non-banks)?

There are no restrictions on the foreign ownership of banks. However, as part of the authorisation where the applicant will be owned by one or more foreign entities, the CBI will consult with the relevant supervisors of those foreign entities before deciding whether to propose the granting of an authorisation. The CBI has expressed preferences in the past that banks not be owned or controlled by single private individuals and that ownership of banks should not be stacked under insurance undertakings.

Law stated - 10 January 2022

Implications and responsibilities

What are the legal and regulatory implications for entities that control banks?

All direct shareholders and indirect shareholders with qualifying holdings will be assessed in connection with an application for authorisation. Those entities may also be subject to consolidated supervision by the CBI.

Law stated - 10 January 2022

What are the legal and regulatory duties and responsibilities of an entity or individual that controls a bank?

Any shareholder with the ability to exercise a significant influence on the conduct of the affairs of a bank may be subject to the CBI's Fitness and Probity Regime. Where direct or indirect shareholders acquire additional shares in a bank, they must notify the CBI if their holding increases above prescribed thresholds of 20 per cent, 33 per cent and 50 per cent.

Law stated - 10 January 2022

What are the implications for a controlling entity or individual in the event that a bank becomes insolvent?

In accordance with the usual rules regarding loss absorption in companies, the shareholders will rank last in the capital hierarchy, meaning that they will be the first to suffer losses in an insolvency.

Law stated - 10 January 2022

CHANGES IN CONTROL

Required approvals

Describe the regulatory approvals needed to acquire control of a bank (or non-bank). How is 'control' defined for this purpose?

Under the European Union (Capital Requirements) Regulations 2014–2020, the European Union (Capital Requirements) (No. 2) Regulations 2014–2020 and the European Union (Capital Requirements) (Amendment) (No. 3) Regulations 2021 (the Irish Capital Regulations), a proposed acquirer cannot (directly or indirectly) acquire a qualifying holding in a bank without prior notification to and approval from the CBI. The notification to the CBI is made by the submission of an acquiring transaction notification form (ATNF). Any acquisition is subject to the final approval of the European Central Bank (ECB) for all banks within the scope of the Single Supervisory Mechanism (SSM).

Where direct or indirect shareholders acquire additional shares in a bank, they must notify the CBI if their holding increases above prescribed thresholds of 20 per cent, 33 per cent and 50 per cent.

The determinative factor in any acquisition of bank shares is the level of interest being directly or indirectly acquired in the target bank rather than a concept of control.

Any acquirer of bank shares will also need to determine whether such an acquisition triggers merger control notifications.

Law stated - 10 January 2022

Foreign acquirers

Are the regulatory authorities receptive to foreign acquirers? How is the regulatory process different for a foreign acquirer?

Foreign acquirers are subject to the same notification requirements as domestic acquirers. If an ATNF is received from a proposed foreign acquirer, the CBI will consult with the relevant supervisor of that proposed acquirer as part of the application process.

Law stated - 10 January 2022

Under what circumstances can a foreign bank (or non-bank) establish an office and engage in business? For example, can it establish a branch or must it form or acquire a locally chartered bank?

A bank authorised in another EU member state can passport throughout the rest of the European Union (including Ireland) without the need to establish a subsidiary in another member state. Passporting can be effected through either the establishment of a branch in Ireland (subject to notifying the home member state) or by the provision of services in Ireland (ie, where services are provided but no physical presence is established).

Licensed banks outside the European Economic Area (EEA) are, pursuant to section 9A of the Central Bank Act 1971, entitled to apply for authorisation to operate as a bank in Ireland. The CBI, following the submission of an application for authorisation, may grant authorisation to a third-country credit institution to operate a branch for the purpose of carrying on banking business in Ireland.

There is no legal obligation for a foreign bank to acquire a locally authorised bank to undertake banking business in Ireland.

Law stated - 10 January 2022

Factors considered by authorities

What factors are considered by the relevant regulatory authorities in an acquisition of control of a bank (or non-bank)?

The requirements in relation to the acquisition and disposal of qualifying holdings in credit institutions are set out in the Irish Capital Regulations.

The 2016 joint guidelines on the prudential assessment of acquisitions and increases in holdings in the financial sector published by the European Supervisory Authorities have been adopted by the CBI. The factors taken into consideration when a person is acquiring a qualifying holding include how the acquisition will be financed and the impact on supervision.

CBI approval must be sought before an acquisition can proceed. A proposed acquirer can only complete an acquisition if the CBI notifies the proposed acquirer that it has no opposition to the acquisition or if the assessment period lapses without the CBI opposing it.

It may be necessary to seek merger control approval from the Competition and Consumer Protection Commission.

Law stated - 10 January 2022

Filing requirements

Describe the required filings for an acquisition of control of a bank.

The proposed acquirer must complete the ATNF. Prior to an ATNF, the CBI expects that the proposed acquirer makes contact with it and pre-notification meetings will usually take place. The purpose of the meeting is to ensure that the application, when made, is as complete as possible.

Supporting information and documentation must be included with the ATNF, including:

- a detailed legal and financial overview of the proposed target;
- organisation charts showing the current ownership and the proposed structure following the proposed acquisition, setting out the capital and voting rights and highlighting where significant influence exists;
- completed individual questionnaires and curricula vitae for each proposed natural acquirer, and for each proposed new appointee to the board of the target bank or the board of its holding company;
- detailed corporate information about each acquirer and its directors or controllers; and
- where the proposed acquisition will involve a change in control, a business plan.

Law stated - 10 January 2022

Time frame for approval

What is the typical time frame for regulatory approval for both a domestic and a foreign acquirer?

Once the completed ATNF is submitted to the CBI, the CBI must acknowledge receipt within two working days of receipt. The CBI must then notify the ECB (where the target bank is subject to the SSM) within a further five working days.

When acknowledging receipt, the CBI must tell the proposed acquirer when the assessment period will end (the assessment must be completed within 60 working days). Additional information may be requested up to the 50th working day of the assessment period. If this occurs the assessment period may be extended by up to 20 working days (for EEA-based acquirers) and 30 working days (for non-EEA-based acquirers).

The application is then considered by the ECB, the CBI and any other relevant regulatory authority. The CBI will propose a draft decision to the ECB for its consideration as to whether or not to approve the proposed acquisition. The proposed acquirer will be notified by the ECB, rather than the CBI, of the outcome.

The above time frame applies equally to a proposed domestic acquirer and a proposed foreign acquirer.

Law stated - 10 January 2022

UPDATE AND TRENDS

Key developments of the past year

Are there any emerging trends or hot topics in banking regulation in your jurisdiction?

Two foreign-owned retail banks (Ulster Bank and KBC) are withdrawing from the Irish market. This is reflective of a trend of consolidation in the Irish market since the 2008 financial crisis. The Central Bank of Ireland notes that this trend of consolidation will result in an increased systemic importance of the remaining institutions, which increases the risk to the Irish state in times of distress despite the mitigants implemented since the 2008 financial crisis and the increased presence of non-bank lenders in the Irish market.

In July 2021, the European Commission presented a package of legislative proposals to augment the European Union's anti-money laundering (AML) and countering the financing of terrorism framework. It is proposed that a new EU AML authority (AMLA) is to be formed. The AMLA will directly supervise certain high-risk institutions and will act as the central authority to coordinate national supervisory authorities. The legislative package also includes provisions to enable the tracing of cryptoasset transfers.

Law stated - 10 January 2022

Jurisdictions

Andorra	Cases & Lacambra
Australia	Piper Alderman
Ghana	Nobisfields
Greece	Zepos & Yannopoulos
Hungary	Nagy és Trócsányi
India	Shardul Amarchand Mangaldas & Co
Ireland	Dillon Eustace LLP
Israel	Tadmor Levy & Co
Italy	Ughi e Nunziante
Japan	TMI Associates
Lebanon	Abou Jaoude & Associates Law Firm
Luxembourg	Loyens & Loeff
Monaco	CMS Pasquier Ciulla Marquet Pastor Svara & Gazo
Singapore	WongPartnership LLP
South Africa	White & Case LLP
Sri Lanka	Tiruchelvam Associates
Switzerland	Lenz & Staehelin
United Kingdom	1 Crown Office Row
USA	Debevoise & Plimpton LLP