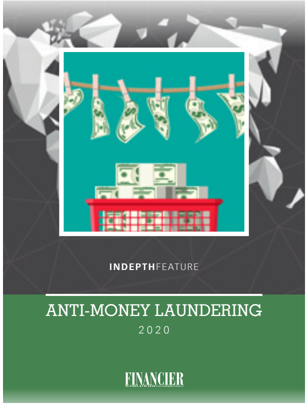


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# ANTI-MONEY LAUNDERING

Financier Worldwide canvasses the opinions of leading professionals around the world on the latest trends in anti-money laundering.

# IRELAND

## *Dillon Eustace*

### *Respondent*


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Keith Waine is head of the financial regulation team at Dillon Eustace. His team provides regulatory advice and compliance support to domestic and international financial service providers, including banks, insurers, investment firms, asset managers, fund service providers and other regulated and unregulated entities. He has extensive experience advising and training clients in relation to their AML/CFT requirements and previously served as head of legal and compliance with responsibility for AML/CFT at a full-service Irish bank. In addition, he is an active member of the Association of Compliance Officers in Ireland and a frequent author and speaker on financial regulatory topics.

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**Q. To what extent is financial crime growing in frequency and complexity? How would you summarise recent trends in Ireland?**

**A:** Financial crime in Ireland appears to be growing in frequency and complexity. The most recent statistics published by Ireland's Central Statistics Office show a significant increase in recorded incidents of fraud, deception and related offences. The number of such offences rose by 35.1 percent in the year to September 2019, from 5779 to 7805 recorded incidents. Suspicious transaction reports made to the authorities pursuant to anti-money laundering and countering the financing of terrorism (AML/CFT) legislation have also increased. The number of such reports made in 2018 was 23,422, which was down 5 percent on the previous year but up from 14,688 in 2013. There is increased awareness and focus on money laundering on the part of the Irish authorities, although to date there has been relatively few criminal prosecutions.

**Q. Could you outline some of the key legal and regulatory developments in Ireland affecting anti-money laundering (AML)? Do companies need to accept that they now operate under heightened scrutiny, and react accordingly?**

**A:** The range of entities subject to AML/CFT requirements in Ireland has expanded in recent years, and those entities are subject to increasingly intrusive and intense supervision. The legal and regulatory framework has been significantly enhanced with the implementation in 2018/2019 of the 4th EU Anti-Money Laundering Directive (4AMLD). This has resulted in a widening of the scope of entities subject to AML/CFT requirements and restrictions on the application of simplified customer due diligence. The definition of politically exposed persons subject to enhanced customer due diligence has been extended to include holders of prominent public functions in Ireland as well as overseas. Perhaps the most significant recent change has been the introduction of regulations requiring all corporate entities to submit details of their beneficial owners to a newly established central register of beneficial ownership. The central register went live in November 2019 and is accessible to the public. Ireland is late

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in implementing in full the 5th EU Anti-Money Laundering Directive (5AMLD), which was due to have been implemented by 10 January 2020. Forthcoming changes under 5AMLD include the application of enhanced due diligence checks to high-risk countries, the application of AML requirements to virtual asset service providers and art dealers, the introduction of a central register of beneficial ownership of trusts, enhanced powers for Ireland's Financial Intelligence Unit (FIU), and measures facilitating greater cooperation among FIUs across the EU. Ireland is also required to implement the 6th EU Anti-Money Laundering Directive (6AMLD) by December 2020. 6AMLD aims to ensure that there is a uniform interpretation of the criminal offence of money laundering across the EU. It also extends criminal liability for money laundering to organisations and seeks to increase international cooperation in the area of enforcement. The competent authority in Ireland responsible for monitoring compliance with the AML/CFT requirements applying to the financial services sector is the Central Bank of Ireland (CBI). In September 2019 the CBI issued its 'Anti-Money Laundering and Countering the Financing of Terrorism Guidelines for the Financial Sector'.

**Q. How would you describe AML monitoring and enforcement activity in Ireland? What problems may arise for multinational companies as a result of the extraterritorial reach of certain laws, and greater collaboration between national agencies?**

**A:** The CBI adopts an assertive, risk-based approach to supervision, backed up by robust enforcement powers. The CBI's risk-based approach reflects Ireland's national money laundering and terrorist financing risk assessment and is designed to ensure that firms with a higher level of risk of being exposed to money laundering or terrorist financing are subject to more frequent and comprehensive supervision. In 2018, the CBI carried out 72 on-site AML/CFT inspections, held 59 review meetings and issued 259 risk evaluation questionnaires to firms. Enforcement actions resulting in fines have been taken against firms from across the financial services industry, with the highest fine issued to date being a fine of €3,325,000 which was issued to a bank. Any firm

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providing financial services in or from Ireland is potentially subject to Irish AML/CFT requirements, regardless of whether or not the firm is established in Ireland. International cooperation in the area of the AML/CFT will be enhanced by the implementation of 6AMLD.

**Q. What steps should companies take to ensure adequate processes, programmes and policies are in place to support AML?**

**A:** Firms should ensure that they have in place a comprehensive internal AML business risk assessment, as required by the legislation. This risk assessment is required to be updated on an annual basis and should take account of the CBI's AML/CFT guidelines and the European Supervisory Authorities' Risk Factors Guidelines. The law requires firms to adopt internal policies, controls and procedures to prevent and detect the commission of money laundering and terrorist financing, addressing issues including customer due diligence, monitoring transactions, reporting of suspicious transactions and recordkeeping. In-scope firms must also ensure that all persons involved in the conduct of their

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business are instructed on AML/CFT law and provided with ongoing training.

**Q. In what ways can companies utilise technology to help manage risks arising from AML?**

**A:** Perhaps the most significant current use of technology in the management of AML/CFT risks in Ireland relates to transaction monitoring, where the use of automated monitoring systems is widespread. The need for effective transaction monitoring solutions has increased in line with the increasing volume and speed of transactions. One of the stated supervisory priorities of the CBI in 2020 is to assess the IT systems utilised for transaction monitoring by high-risk firms operating across different sectors. Using technology to identify and verify customers is still relatively novel in Ireland, but it is an area where significant future development is expected.

**Q. What overall advice would you give to organisations in terms of marrying technology with protocols, to enhance the efficiency of their AML capabilities and allow them to detect unusual behaviour and identify red flags?**

**A:** Firms should ensure that all technologies employed are subject to regular review and compliance assurance testing. There should be a documented governance and control process with procedures in relation to assurance testing. The CBI will not look favourably upon firms that place undue faith in technological systems or that fail to put in place the necessary parameters to ensure that those systems are fit for purpose. Irish AML/CFT legislation is neutral as to the types of technology that may be utilised. Firms that utilise third-party FinTech solutions should, however, bear in mind that they continue to remain responsible for compliance with their AML/CFT obligations. The responsibility for compliance cannot be outsourced. The CBI has established an Innovation Hub for the purposes of allowing firms to engage with it on new technologies outside of the existing formal engagement processes and has stated that it is keen to engage

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with industry in relation to AML/CFT innovations.

**Q. Going forward, do you expect the risks posed by money laundering to increase over time? Do companies need to continually improve their systems in order to deal with current and emerging threats?**

**A:** The increasing scale, sophistication and complexity of financial products and services offered in or from Ireland in recent years has undoubtedly increased money laundering risks. Firms need to ensure that their AML/CFT frameworks and processes are updated regularly to ensure that they remain fit for purpose. The fight against money laundering and terrorist financing is one of the stated strategic priorities of the CBI and so we can expect the focus on firms' compliance with their AML/CFT obligations to continue. Firms should be prepared for supervisory inspections in relation to compliance with those obligations and where material breaches are found they are likely to face fines or other penalties. ❑

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