







Matheson

Legal and Regulatory Developments Summer 2022

Legislative and Regulatory Developments

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Legal and Regulatory Developments | Introduction

Following our commentary and analysis this part of the Summer Horizon Tracker 2022 provides a concise and current guide to legislative and regulatory developments. This is done by relevant practice areas. Each section is divided into parts describing proposed legislation, Bills which have been prepared and are going through the legislative process, Acts awaiting commencement and so on. The table below describes these parts. Please note that you can refer to your usual Matheson advisor or any member of the Knowledge Management Team or the **PSL Faculty** who will assist you with your query. **The information provided here is up to date as at 13 June 2022.**

CATEGORY	FURTHER INFORMATION
Irish Legislation Passed since the Matheson Horizon Tracker March 2022	Any bills that have been enacted in the intervening period.
Irish Proposed Legislation	Irish proposed legislation from Spring Legislative Programme and Summer Legislative Programme. This includes any legislation which is identified in the Summer Programme whether it is being considered generally, Heads of Bills have been drafted or legislation is otherwise proposed. It also includes regulatory developments.
Bills	Bills progressing through the Oireachtas.
Acts Awaiting Commencement	Acts which have been passed but which have not yet commenced.
National Consultations	We have mentioned these where they seem particularly significant.
EU Directives Awaiting Implementation (Transposition).	EU Directives waiting to be implemented (transposed) by the Irish legislature.
EU Regulations	EU Regulations (including, in some cases, Regulations awaiting commencement).
EU Draft and Proposed Legislation	Draft legislation that has been adopted by the Commission and has been assigned a procedure number.
EU Consultations	We have mentioned these where they seem particularly significant.



Climate, Sustainability and the Environment





IRISH LEGISLATION PASSED SINCE HORIZON TRACKER
MARCH 2022

Sea Fisheries (Miscellaneous Provisions) Act 2022

This act was signed into law on 15 March 2022. The purpose of the legislation is to provide for the EU’s points system for serious fishery infringements of the Common Fisheries Policy as required by Council Regulation 1224/2009, to amend typographical errors in the Sea-Fisheries and Maritime Jurisdiction Act 2006 and to introduce other miscellaneous and technical amendments.

Latest stage: Act came into operation on 3 May 2022

IRISH PROPOSED LEGISLATION

Just Transition Commission Bill

The purpose of this bill is to establish a statutory Just Transition Commission which will advise the Government on practices of integrating just transition principles into climate action policy.

Latest stage: Work is underway

Aarhus Convention Bill

The purpose of this bill is to consolidate and provide for further implementation in Ireland of the **access to justice provisions of the Aarhus Convention** on Access to Information, Public Participation in Decision-making and Access to Justice.

Latest stage: Heads of Bill in preparation

Inland Fisheries (Consolidation) Bill

The purpose of this bill is to modernise and consolidate existing Inland Fisheries legislation.

Latest stage: Heads of Bill in preparation

Wildlife (Amendment) Bill

The purpose of this bill is to give effect to the proposed reconfiguration of the raised bog Natural Heritage Area Network arising from the 2014 review by the government of the Raised Bog Natural Heritage Area Network and to provide for a review of blanket bog Natural Heritage Areas and place a duty on public bodies to promote the conservation of biodiversity.

Latest stage: Work is underway.

River Shannon Management Agency Bill

To create a statutory management body with responsibilities and functions to identify, coordinate, monitor and communicate flood risk management actions and activities for the River Shannon catchment area.

Latest stage: Heads of Bill in preparation. Priority Legislation in the Summer Legislative Programme.

Water Services Separation Bill

The purpose of this bill is to provide for the separation of Irish Water from the Eirvia Group and related matters.

Latest stage: Heads of Bill approved on 20th April 2021, pre-legislative scrutiny has taken place. Priority Legislation in the Summer Legislative Programme 2022.

Water Environment (Abstractions) Bill

The purpose of this bill is to regulate and establish a national register of water abstractions greater than 25 cubic meters per day in order to ensure compliance with the requirements of the **EU Water Framework Directive**. The bill will provide for a risk-based approach to the regulation of abstractions. It also proposes that all abstractions of 2,000 cubic metres or more per day will require licensing by the EPA.

Latest stage: Heads of Bill were approved 29 September 2020. Pre-legislative scrutiny has taken place. The bill is listed as Priority Legislation in the Summer Legislative Programme.



BILLS

Circular Economy Bill 2022

The Circular Economy, Waste Management (Amendment) and Minerals Development (Amendment) Bill 2022 was initiated on 25 March. The purpose of this bill is to create a legislative basis for certain actions under the Government’s **Waste Action Plan for a Circular Economy**, which was a feature of the new Programme for Government. The bill will underpin national measures to promote the development of the circular economy.

Latest stage: Currently before Dail Éireann 3rd Stage.

ACTS AWAITING COMMENCEMENT

Maritime Area Planning Act

Date published: 23 December 2021

This act establishes a new marine planning system underpinned by a statutory marine planning policy statement and guided by the National Marine Planning Framework. The legislation has been described as being a key enabler of long term, sustainable maritime area development, including future expansion of Ireland’s offshore renewable energy resources which will be imperative in meeting the country’s 2030 climate targets and transition to clean energy.

Latest stage: Certain sections commenced by **SI 12/2022**.

Animal Health and Welfare and Forestry (Miscellaneous Provisions) Act 2022

The purpose of this act is to amend the Animal Health and Welfare Act 2013, prohibiting fur farming in Ireland and other related matters.

Latest stage: Signed into law 4 April 2022, awaiting commencement.

EU DIRECTIVES AWAITING IMPLEMENTATION

Revised Drinking Water Directive

Date published: 23 December 2020

This directive aims to improve the quality of drinking water and provide greater access and information to citizens in relation to same. The proposal for modernising the 20-year-old Drinking Water Directive (98/83/EC) comes as a result of the Refit evaluation, the implementation of the Commission’s response to the European Citizens’ Initiative ‘Right2Water’ and as a contribution to meeting the UN Sustainable Development Goals. Ireland has not yet transposed the Directive.

Transposition date: 12 January 2023.

EU DRAFT LEGISLATION

Proposal for a Regulation on substances that deplete the ozone layer

Procedure reference: 2022/0100/COD

Date published: 5 April 2022

Ozone depleting substances are human-made chemicals which damage the ozone layer and also have high global warming potentials. Following the adoption of the Montreal Protocol on Substances that Deplete the Ozone Layer in 1987, positive benefits have been achieved both in relation to reducing the ozone hole and global warming.

Regulation (EC) No 1005/2009 (the “**ODS Regulation**”), is the primary legislation dealing with ozone depleting substances in the EU. The regulation was submitted for a ‘REFIT’ evaluation, which suggested a number of improvements, including better alignment with the European Green Deal. This proposal would replace the ODS regulation setting out additional emission reductions to further align with the Green Deal, provide enhanced monitoring of ODS including uncontrolled substance, and improve the efficiency of existing rules to reduce administrative costs and generally improve the coherence with other rules.

Latest stage: First reading in the Council of the EU.



Proposal for a Directive on the Sustainable Products Initiative

Procedure reference: 2022/0095/COD

Date published: 31 March 2022

This initiative, which will revise the Eco-design Directive and propose additional legislative measures as appropriate, aims to make products placed on the EU market more sustainable. Consumers, the environment and the climate will benefit from products that are more durable, reusable, repairable, recyclable, and energy-efficient. The initiative will also address the presence of harmful chemicals in products such as:

- electronics and ICT equipment;
- textiles;
- furniture; and
- steel, cement and chemicals.

Latest stage: First reading in the Council of the EU.

Proposal for a Regulation Establishing a Social Climate Fund

Procedure reference: 2021/0206 (COD)

Date published: 14 July 2021

This proposal forms part of the EU’s ‘Fit for 55’ legislative package aimed at reducing greenhouse gas emissions by 55% by the year 2030. The proposal will establish a fund to support the people and enterprises most impacted by the policy.

Latest stage: First reading in the European Parliament and Council.

Proposal for a Directive on reducing CO2 Emissions from Shipping by Encouraging the Use of Low-Carbon Fuels

Procedure reference: 2021/0210 (COD)

Date published: 14 July 2021

This initiative, known as FuelEU Maritime and part of the European Green Deal, aims to facilitate increased use of sustainable alternative fuels in European shipping and ports in order to reduce CO2 emissions from shipping. It will do this by addressing:

- market barriers that hamper their use; and
- uncertainty about which technical options are market ready.

Latest stage: First reading in the European Parliament and Council.

Proposal for a Regulation Modernising EU Rules on Batteries

Procedure reference: 2020/0353 (COD)

Date published: 10 December 2020

In line with the European Green Deal and the move to a circular economy, EU law aims to minimise batteries’ harmful effects on the environment. The rules cover their full life cycle, from design and production to reuse and recycling. This proposed regulation would update EU rules to ensure that:

- all batteries are produced sustainably (i.e., with low resource consumption and little waste generated) and can be easily recycled; and
- any batteries used in the growing market for electric vehicles are sustainable.

Latest stage: First reading in the European Parliament and Council.



Proposal for a Regulation Revising EU Rules on Waste Shipments

Procedure reference: 2021/0367

Date published: 17 November 2021

This proposed Regulation will review the EU rules on waste shipments. The purpose of this review is to ensure that EU policy on waste shipments promotes recycling in the EU to support the transition to the circular economy. The review will also explore ways to reduce the export of waste, for example through:

- a better inspection system;
- measures against illegal shipments; and
- measures to avoid potential environment-and-health related adverse effects on the environment and public health caused by shipments of waste to third countries outside the EU.

Latest stage: First reading in the European Parliament and Council.

Proposal for a Directive on the EU Emissions Trading System - Updating the Rules for Aviation

Procedure reference: 2021/0207

Date published: 14 July 2021

This legislation proposes to amend Directive 2003/87/EC. It aims to reduce emissions in the aviation sphere by amending the EU’s Emissions Trading System to:

- implement the carbon offsetting and reduction scheme for international aviation (“CORSIA”) in a way that is consistent with the EU’s 2030 climate objectives; and
- increase the share of allowances auctioned under the system for aircraft operators to further contribute to reducing greenhouse gas emissions.

Latest stage: First reading in the European Parliament and Council.



IRISH PROPOSED LEGISLATION

Gas (Amendment) Bill

This bill amends the Gas Acts, to facilitate the integration of Ervia into Gas Networks Ireland.

Latest stage: Draft Heads of Bill in preparation.

EU DRAFT LEGISLATION

Proposal for a Directive amending Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources, Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency

Procedure reference: 2022/0160(COD)

Date published: 18 May 2022

The purpose of this proposed legislation is to reflect the EU’s plan to accelerate the green transition towards renewable energy and energy efficiency by amending the existing Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources. In accordance with the REPower EU Communication this proposal aims to streamline the permit-granting processes applicable to renewable energy, including environmental impact assessments. This proposal would also raise the renewable

energy targets under Article 1(2)(a) of the proposal to amend Directive (EU) 2018/2001 to 45% in light of market changes on fossil fuels. The proposal further amends Directive 2010/31/EU on the energy performance of buildings by introducing obligations on Member States to promote solar energy installations for buildings.

Proposal for a Regulation Establishing a Carbon Border Adjustment Mechanism (“CBAM”)

Procedure reference: 2021/0214 (COD)

Date published: 14 July 2021

As part of the ‘Fit for 55’ Package, CBAM aims to prevent carbon leakage by ensuring equivalent carbon pricing for imports and domestic products. The CBAM will be phased in over time, and will initially apply to importers of iron, steel, cement, fertiliser, aluminium and electricity only. The regulation provides for a transitional phase which imposes reporting obligations without financial adjustments. From 2026 onwards, it is proposed that the CBAM will be fully effective.

Latest stage: First reading in the European Parliament and Council.

Proposal for a Regulation amending the Effort Sharing Regulation

Procedure reference: 2021/0200 (COD)

Date published: 14 July 2021

The Effort Sharing Regulation (Regulation (EU) 2018/842) sets greenhouse gas emissions reduction targets based on GDP per capita for Member States, and also some industry specific targets such as for transport, agriculture, buildings and waste. As part of the EU’s ‘Fit for 55’ package, the Commission is proposing strengthening emissions reduction targets.

Latest stage: First reading in the European Parliament and Council.

Proposal for a Revised Gas Regulation

Procedure reference: 2021/0424 (COD)

Date published: 15 December 2021

Complementary to the EU’s ‘Fit for 55’ package, the Commission has proposed a new regulatory framework which aims to decarbonise gas markets, establish a competitive hydrogen market and reduce methane emissions. As part of this framework, the Commission is proposing to recast Regulation (EU) No 715/2009 (the



“**Gas Regulation**”). The recast Gas Regulation prescribes rules for access to natural gas and hydrogen systems with a view to ensuring the functioning of internal EU gas markets.

Latest stage: First reading in the European Parliament and Council.

Proposal for a Regulation on the Deployment of Alternative Fuels Infrastructure

Procedure reference: 2021/0223 (COD)

Date published: 14 July 2021

As part of the EU’s ‘Fit for 55’ package which aims to reduce the continent’s carbon emissions by 55% by 2030, transport emissions must be cut significantly. Switching to low carbon fuels is seen as a central pillar of this decarbonisation. The revised Alternative Fuels Infrastructure Regulation will require Member States to expand charging capacity and install electric car charging and hydrogen refuelling points at specific distances on major highways.

Latest stage: First reading in the European Parliament and Council.

Corporate and EU Competition Developments



Corporate and EU Competition Developments

IRISH PROPOSED LEGISLATION

Screening of Third Countries Transactions Bill

Regulation 2019/452 on Foreign Direct Investment Screening introduced, from 20 October 2020, an information-sharing framework between Member States and the Commission concerning foreign (non-EU) direct investment deemed capable of affecting security or public order.

The precise scope of an Irish investment screening regime remains to be seen although the Summer Legislative Programme referred to plans to develop an investment screening mechanism “which will empower the Minister to respond to threats to Ireland’s security and public order posed by particular types of foreign investment, and to prevent or mitigate such threats”.

Latest stage: The bill has yet to be published. Heads of Bill were approved on 27 July 2020 and pre-legislative scrutiny has been waived. The bill is listed as Priority Legislation in the Summer Legislative Programme 2022.

Companies (Miscellaneous Provisions) Bill

This bill proposes to make various amendments to the Companies Act 2014 and is expected to address certain issues identified by the Company Law Review Group.

Latest stage: Work is underway on the bill.

Limited Partnership Bill

This bill proposes to reform the Limited Partnership Act 1907 which governs the registration of limited partnerships in Ireland.

Latest stage: Heads of Bill are in preparation.

Industrial Development (Miscellaneous Provisions) Bill

This bill will enable IDA Ireland (Ireland’s inward investment promotion agency) to partner with the Ireland Strategic Investment Fund (“**ISIF**”) to commercially develop office buildings on IDA-owned lands in regional areas and will also make certain amendments to the National Standards Authority of Ireland Act 1996.

Latest stage: Heads of Bill approved 4 August 2020 and revised Heads of Bill are now in preparation.

Co-operatives Societies Bill

This bill aims to consolidate and modernise the existing Industrial and Provident Societies legislation and to ensure that an effective legislative framework suitable for the diverse range of organisations using the co-operative model in Ireland is in place.

Latest stage: Heads of Bill are in preparation.

Agricultural and Food Supply Chain Bill

This bill will establish a new independent statutory authority to be known as the Office for Fairness and Transparency in the Agri-Food Supply Chain to enforce the Unfair Trading Practices Directive (Directive (EU) 2019/633).

Latest stage: Heads of Bill approved on 22 March 2022. PLS to be determined.

BILLS

Competition (Amendment) Bill

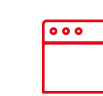
This bill will transpose the ECN+ Directive (EU) 2019/1 and provides for the reform of competition enforcement in Ireland, with the introduction of administrative fining powers for the Competition and Consumer Protection Commission as well as the establishment of a leniency, or ‘whistle-blower’ programme.

Latest stage: Seanad Éireann, Third Stage (26 May 2022).

PRIVATE MEMBERS’ BILLS

Irish Corporate Governance (Gender Balance) Bill 2021

This bill proposes to make provision for the regulation of gender balance on the boards and governing councils of corporate bodies and related matters. As it is not a



Corporate and EU Competition Developments

government-sponsored bill, it is unlikely to progress further but is indicative of a growing focus on the issue of gender equality on company boards.

Latest stage: Dáil Éireann, Second Stage.

ACTS AWAITING COMMENCEMENT

Companies (Corporate Enforcement Authority) Act 2021

Date signed into law: 22 December 2021

The principal purpose of the act is to establish the Office of the Director of Corporate Enforcement as a standalone agency called the “Corporate Enforcement Authority”, with enhanced powers and autonomy. The act also gives effect to recommendations of the Company Law Review Group (“**CLRG**”) in relation to certain anomalies in the Companies Act 2014 concerning corporate governance, shares and share capital.

Share capital changes include:

- restoration of the use of the share premium account for various purposes;
- clarification relating to three-party share for undertaking and share for share transactions;

- confirmation that unlimited companies do not require reserves to acquire their own shares; and
- clarification on the post-merger treatment of merging/dividing companies’ shares acquired by a successor company (for example, in the case of a downstream merger).

Commencement: The act has not yet been commenced. Commencement orders required.

EU DIRECTIVES AWAITING IMPLEMENTATION

Directive on Cross-border Conversions, Mergers and Divisions

Date published: 12 December 2019

Transposition date: 31 January 2023

This directive, which amends Directive (EU) 2017/1132, provides procedures for cross-border conversions (enabling companies to change legal form into a similar legal form of another Member State), divisions and mergers to foster cross-border mobility and afford adequate protection to company stakeholders.

While these new cross-border mobility measures will create opportunities for companies, they must be balanced against stakeholder interests. The precise detail of Irish transposition remains to be settled, although

the Department of Enterprise, Trade and Employment has signalled that Ireland will meet the January 2023 implementation deadline.

Directive to Make NCAs More Effective Enforcers (ECN+)

Date published: 14 January 2019

Transposition date: 4 February 2021

The ECN+ Directive (EU) 2019/1 provides for a wide-ranging reform of competition law in the EU in order to harmonise the enforcement of EU competition law across the EU and bolster the enforcement powers of national competition authorities. In particular, the ECN+ Directive seeks to ensure adequate provision at the Member State level for civil sanctions for breaches of competition law, investigative powers of national authorities and fully-fledged leniency programmes enabling businesses to come forward regarding potential competition law breaches whilst avoiding or minimising any sanctions imposed. Ireland has missed the transposition deadline but the directive is expected to be transposed by the Competition (Amendment) Bill in the coming months.





EU DRAFT LEGISLATION

Proposal for a Directive Amending the Non-Financial Reporting Directive as regards Corporate Sustainability Reporting

Procedure reference: 2021/0104 (COD)

Date published: 21 April 2021

This proposal is designed to revise and expand the regime introduced by the EU Non-financial Reporting Directive (Directive 2014/95/EU). The proposed directive aims to ensure that companies report reliable and comparable sustainability information. Companies in scope will have to report information on a full range of environmental, social and governance issues.

The regime will extend to all large companies, whether listed or not and regardless of employee numbers. The European Financial Reporting Advisory Group (“**EFRAG**”) Project Task Force has published working papers and exposure drafts signalling its preliminary approach towards reporting standards. Deliberations are currently taking place at EU level to determine the likely timing for implementation. Companies may be required to start reporting to the new standards in 2024, based on FY2023 information but it seems increasingly likely that there will be a delay of one year (or possibly two years for non-listed companies).

Latest stage: First reading in the European Council.

Proposal for a Corporate Sustainability Due Diligence Directive

Procedure reference: 2022/051 (COD)

Date published: 23 February 2022

This proposal establishes a corporate sustainability due diligence duty and aims to foster sustainable and responsible corporate behaviour throughout global value chains. Companies in scope must identify and, where necessary, prevent, end or mitigate adverse impacts of their activities on human rights, such as child labour and exploitation of workers, and on the environment.

The new due diligence rules will, if adopted as proposed, apply to the following companies and sectors:

EU companies:

- Group 1: all EU limited liability companies of substantial size and economic power (with 500+ employees and €150 million+ in net turnover worldwide).
- Group 2: Other limited liability companies operating in defined high impact sectors, which do not meet both Group 1 thresholds, but have more than 250 employees and a net turnover of €40 million+ worldwide. Rules will start to apply 2 years later than for Group 1 companies.

Non-EU companies active in the EU with turnover threshold aligned with Group 1 and 2, generated in the EU.

Group 1 companies would need to have a plan to ensure that their business strategy is compatible with limiting global warming to 1.5 °C in line with the Paris Agreement.

Latest stage: Preparatory Stage in European Parliament

Taxation



IRISH PROPOSED LEGISLATION

Finance Bill 2022

Every year, the Minister for Finance issues a budget statement outlining the proposed public spending for the following year and changes to Ireland's tax laws. The budget statement for 2023 is scheduled for October 2022. The Finance Bill 2022 should be issued in the week following the budget statement and will include legislation to implement the announced tax policy changes.

Latest stage: Work is ongoing. Expected in October 2022.

Taxation and Certain Other Matters (International Mutual Assistance) Bill

This bill will transpose elements of the OECD Mutual Convention on Administrative Assistance and the EU / Switzerland Anti-Fraud Agreement.

Latest stage: Heads of Bill have been approved. Pre-legislative scrutiny has been waived.

BILLS

Finance (COVID-19 Miscellaneous Provisions) Bill 2022

This bill was published on 4 March 2022 and will give legislative effect to the changes to the COVID support schemes, announced by the government, including changes

to, and extension of, the Employment Wage Subsidy Scheme, the COVID Restrictions Support Scheme, the tax debt warehousing scheme and the tax treatment of the one-off COVID-19 recognition payment for healthcare workers.

Latest stage: Final Stage, Seanad Éireann.

NATIONAL CONSULTATIONS

Public Consultation on Pillar Two Minimum Tax Rate Implementation

The Department of Finance launched a public consultation on 26 May seeking views on the implementation of the Pillar Two minimum tax rate proposal in Ireland. Pillar Two relates primarily to the implementation of the global anti-base erosion (“**GloBE**”) rules, which will introduce a global minimum effective tax rate of 15% for in-scope businesses (companies with revenue above EUR 750 million).

Latest stage: The consultation period will run until 22 July 2022.

Public Consultation on the Research & Development Tax Credit and the Knowledge Development Box

The Department of Finance launched a public consultation in relation to (i) the research and development (“**R&D**”) tax credit (“**R&D Tax Credit**”); and (ii) the knowledge development box (“**KDB**”) in April 2022.

This review will consider the potential impacts of the agreement reached at the OECD/G20 Inclusive Framework on base erosion and profit shifting (“**BEPS**”) (the “Inclusive Framework”) on the R&D Tax Credit and the KDB, particularly the Pillar Two global anti-base erosion (“**GloBE**”) rules. The purpose of the consultation, therefore, is to consider the current challenges facing firms who are active in the R&D and intellectual property space, as well as the implications of recent domestic and international tax reforms for these two reliefs.

Latest stage: The consultation closed on 30 May 2022. Submissions to the consultation will be reviewed by the Department of Finance.

Consultation on the Transposition of Directive (EU) 2021/2101

In December 2021, the Department of Enterprise, Trade and Employment launched a public consultation on the transposition of Directive (EU) 2021/2101 on public country-by-country reporting into Irish legislation. This directive is to be transposed into Irish legislation by 22 June 2023.

Latest stage: The consultation closed on 18 February 2022. Submissions to the consultation are being reviewed.





EU DIRECTIVES AWAITING IMPLEMENTATION

Directive amending Directive 2011/ 16/ EU on Administrative Co-operation in the Field of Taxation (DAC7)

Date published: 22 March 2021

This directive amends the existing rules (Directive 2011/ 16/ EU) on exchange of information and administrative co-operation and the extent of the EU’s tax transparency rules to digital platform operators. It requires new reporting obligations for digital platform operators in respect of revenues generated by sellers carrying out certain activities on digital platforms and automatic exchange of the information for tax authorities in Member States. It also makes amendments with respect to joint audits from 1 January 2024.

Transposition date: The rules for digital platform operators must be implemented by Member States in domestic legislation by 31 December 2022 and will be applicable from 1 January 2023. The first reporting of data will take place by 31 January 2024. The Finance Act 2021 transposed the directive into Irish law. It is expected that the Finance Bill 2022 will include further amendments in respect of DAC7.

Directive amending Directive 2006/112/EC as regards Rates of Value Added Tax

Date published: 6 April 2022

Under this directive, the existing EU rules (Directive 2006/ 112/ EC) on setting reduced rates of VAT are amended and Member States are granted more freedom in setting VAT rates (provided that the average weighted rate exceeds 12%) and to what they apply. In addition a list of goods and services has been agreed to which reduced rates cannot apply.

Transposition date: 31 December 2024.

Directive on Introducing Certain Requirements for Payment Service Providers

Date published: 2 March 2020

Under this directive (amending Directive 2006/ 112/ EC) payment service providers will be required to keep records in respect of cross-border payments made to payees who receive a relatively high volume of cross-border payments. Payment service providers will make these records available to EU tax authorities. The directive is intended to facilitate tax fraud detection by EU tax authorities.

Transposition date: 31 December 2023

ATAD and ATAD II: Anti-Tax Avoidance Directive

Date published: ATAD: 19 June 2016 ATAD II: 7 June 2017

The Anti-Tax Avoidance Directive (“**ATAD**”), as amended by the Anti-Tax Avoidance Directive II (“**ATAD II**”), is designed to ensure consistent implementation of certain recommendations made under the OECD’s BEPS project while ATAD II, among other things, neutralises tax mismatches (eg, deduction of a payment without inclusion by the recipient) that arise as a result of the hybrid nature of an entity or instrument.

Under ATAD and ATAD II, the following changes have been made to Irish corporate tax law:

- controlled foreign companies rules were introduced into Irish law for the first time for accounting periods beginning on or after 1 January 2019;
- a general anti-avoidance rule is provided under Irish law and is regarded as sufficient implementation of the EU general anti-abuse rule which was required to be implemented by 1 January 2019;
- an exit tax was introduced for business migrations from Ireland occurring on or after 10 October 2018. The charge applies at a 12.5% rate on the migration of tax residence of a corporate taxpayer from Ireland or on migration of the business or assets of a corporate tax payer from Ireland;

- interest limitation rule was implemented under the Finance Act 2021 pursuant to which restrictions are imposed on the level of tax deductions that are available for interest payments made by corporate taxpayers. The rule provides that where an entity has exceeded borrowing costs of more than EUR 3,000,000 it may only deduct its ‘exceeding borrowing costs’ up to an amount equal to 30 per cent of its earnings before interest, tax, depreciation and amortisation (“**EBITDA**”). For these purposes, “exceeding borrowing costs” mean the amount by which an entity’s borrowing costs exceed “interest revenues and other equivalent taxable revenues”; and
- anti-hybrid rules were introduced under the Finance Act 2019 while reverse anti-hybrid rules were implemented under the Finance Act 2021. Broadly, the anti-hybrid rules are designed to neutralise arrangements where amounts are deductible from the income of one entity but are not taxable for another, or the same amounts are deductible for two entities. The reverse hybrid rules are designed to tax income in Ireland that would otherwise go untaxed because the relevant Irish entity (eg, an Irish partnership) is regarded as tax transparent in Ireland, but tax opaque in the territory of a participator.

Transposition date: Various transposition dates. The Finance Act 2021 transposed the interest limitation rule

and reverse anti-hybrid rules into Irish law for accounting periods commencing on or after 1 January 2022.

Read more: [Matheson Insight Article on Ireland’s Reverse Hybrid Rule](#).

Public Country by Country Reporting: Directive on Disclosure of Income Tax Information by Certain Undertakings and Branches

Date published: 1 December 2021.

The EU has now published the recently approved Directive on public country-by-country reporting (“**CBCR**”). Under the terms of this directive, multinational corporate groups with consolidated group revenue in excess of EUR 750 million for each of the last two consecutive financial years, and which are active in more than one EU jurisdiction, will be required to publicly report certain information, including their employee headcount, revenue (from related and unrelated parties), pre-tax profit, income tax accrued and income tax paid on a country-by-country basis for each Member State.

Companies will also be required to report this information for certain “third countries”, ie, each country that is listed on the EU blacklist or that has been listed for two consecutive years on the EU greylist. Information in respect of all other third countries can be compiled on an aggregated basis

and provided as a single line item.

EU branches of undertakings located outside the EU can also trigger a reporting requirement where their parent undertaking satisfies the EUR 750 million revenue threshold. Where the parent of a multinational group is established outside the EU, a reporting obligation will arise where an EU subsidiary constitutes a “medium” or “large” undertaking, as defined in the EU Accounting Directive 2013/ 34/ EU. Broadly, this means that a multinational group will be required to file a CBCR report where it has an EU subsidiary that exceeds at least two of: a balance sheet of EUR 4 million; net turnover of EUR 8 million; or average number of employees of 50 during a financial year.

The directive provides for a ‘safeguard clause’ whereby certain business-sensitive information can be temporarily omitted from public disclosure. Any such omitted information must be published within five years of its original omission. However, information concerning tax jurisdictions listed on the EU blacklist may not be omitted. The safeguard clause (along with a number of other clauses in particular) will be reviewed as part of a planned wider review of the impact and effectiveness of the directive which it has been agreed will be completed by 22 June 2027.

The information must be made accessible to the public free of charge on the website of the relevant undertaking. The information must be made available for a minimum of five



consecutive years. The European Commission intends to provide a common template which must be adopted when making a CBCR report.

The CBCR report must be published within 12 months of the balance sheet date of the relevant financial year. In-scope multinational corporate groups with a 31 December year-end, will need to publish this information on the group's website in respect of the 2025 financial year (ie, the first reportable financial year for companies with a 31 December year-end) by December 2026 (ie, the first reporting deadline for companies with a 31 December year-end).

The government has launched a public consultation on the implementation of the directive into Irish law; the deadline for submissions was 18 February 2022.

Transposition date: This directive was approved and came into force on 21 December 2021. Member States must transpose the directive into national law by 22 June 2023 with reporting requirements applying for all financial years starting on or after 22 June 2024.

Read more: [Matheson Insight Article on the CBCR directive](#).

PUBLISHED INITIATIVES

Published Initiative on Withholding Taxes – New EU System to Avoid Double Taxation

The Commission launched an initiative in September 2021 to introduce a common EU-wide system for withholding taxes on dividend or interest payments, including a system for tax authorities to exchange information and co-operate with each other. It is stated that this initiative aims to tackle the burdensome withholding tax relief procedures for cross-border investors in the securities market. The stakeholders within scope of this initiative are primarily cross-border portfolio investors.

Latest stage: Public consultation is open until 26 June 2022. The proposal for a directive is expected to be published in Q4 2022.

Published Initiative on Proposed Amendment to Directive on Administrative Co-operation

The Commission launched an initiative in Q4 2020 regarding the eighth amendment to the Directive on Administrative Co-operation (“**DAC8**”) (Directive 2011/ 16/ EU). The DAC8 proposals seek to strengthen existing rules and expand the exchange of information framework to address tax issues related to cryptocurrency and e-money. The proposals have not yet been published by the Commission.

Latest stage: The public consultation period closed in

June 2021. The proposals were expected to be published by the end of 2021, however the draft directive has yet to be published.

EU DRAFT LEGISLATION

Proposal for a Directive on the level of Taxation for Multinational Groups in the Union

Procedure reference: 2021/0433 (CNS)

Date published: 22 December 2021

In response to the recent OECD agreement on a two pillar solution to address the tax challenges arising from the digitalisation of the economy (the “**OECD Agreement**”), the EU published a draft directive to implement Pillar Two of this agreement, namely the measures to ensure a global minimum level of taxation for multinational groups. The objective of this directive is to impose a minimum effective tax rate of 15% on multinational groups above a certain size threshold.

The Pillar Two rules in the OECD Agreement encompass two sets of rules: (i) the “**GLoBE**” rules (including the ‘income inclusion rule’ and the ‘undertaxed payments rule’); and (ii) the subject to tax rule. This directive proposes to implement only the “**GLoBE**” rules, with the subject to tax rule to be implemented in a later model treaty provision. The EU



implementation of the “**GLoBE**” rules extends their scope to purely domestic groups of the requisite scale, to ensure compliance with the fundamental freedoms.

As provided in the OECD Agreement, the directive would only apply to entities located in the EU that meet the annual threshold of at least EUR 750 million of consolidated revenue in at least two of the four preceding years, and certain exclusions set out in the OECD Agreement are carried over into this directive.

Latest stage: Under discussion within the Council. The aim is for the directive to apply from 1 January 2023.

Proposal for a Directive on Pillar One of the OECD Agreement

Procedure reference: TBC

Date published: TBC

The Commission has stated that a directive for implementing the provisions in Pillar One of the OECD Agreement, namely the reallocation of taxing rights on multinational enterprises with a global turnover exceeding EUR 20 billion, will be proposed in 2022. However, this timing may be postponed following comments on 24 May from Mathias Cormann, the secretary-general of the OECD, that it is likely the practical implementation of Pillar One may be delayed until 2024

rather than the original timeline of 2023.

Broadly, Pillar One aims to re-allocate profits of the largest and most profitable multinational enterprises to the jurisdictions where the customers and users of those enterprises are located. The proposal also aims to remove and standstill the patchwork of independent national digital services taxes and other similar measures which are being adopted in an ever-increasing number of jurisdictions. In practical terms, Pillar One places multinational enterprises with a global turnover above EUR 20 billion and profitability above 10% in-scope.

It will function by creating a new ‘special purpose’ nexus rule which results in the allocation of what is referred to as ‘Amount A’ to any market jurisdictions in which that multinational enterprise derives at least EUR 1 million in revenue. Extractives and regulated financial services are excluded from the scope of Pillar One.

The threshold for the special purpose nexus rule (which applies to determine whether a jurisdiction qualifies for the Amount A allocation) is lower for smaller jurisdictions with GDP lower than EUR 40 billion. This includes jurisdictions such as Malta, for example, where the threshold has been set at EUR 250,000. Pillar One will use a revenue-based allocation key which will allocate 25% of the ‘residual profits’ (defined as profit in excess of 10% of revenue) to market jurisdictions which fall within the parameters of the special

purpose nexus. A second amount, ‘Amount B’, aims to use the arm’s length principle to standardise remuneration received by related party distributors engaged to perform baseline marketing and distribution activities for those multinational enterprises.

The Commission has proposed to allocate 15% of the residual profits, which would be reallocated to Member States under Pillar One, to the EU budget.

The existing proposed directives on Digital Services Taxes (procedure references 2018/0072 (CNS) and 2018/0073 (CNS)) will be withdrawn, as per the Commission’s Communication on Business Taxation for the 21st Century (the “Commission Communication”) adopted on 18 May 2021. Work on the related digital levy proposal was put on hold on 12 July 2021 in anticipation of the OECD Agreement, and a further statement on this was expected in 2022. (See below, latest stage). The proposal to direct a portion of Pillar One reallocated residual profits to the EU budget may signal the end of the digital levy.

Latest stage: The Commission has stated that a multi-lateral convention through which Amount A is implemented is expected to be ready and open for signature in 2022 and should enter into effect in 2023. The Commission also stated that work on Amount B should be completed by the end of 2022. However, following recent comments from the secretary-general of the OECD on the timing for



implementation of Pillar One from 2024 onward, publication of this proposal may be delayed.

Proposal for a Directive laying down rules to prevent the misuse of shell entities for tax purposes

Procedure reference: 2021/0434 (CNS)

Date published: 22 December 2021

The purpose of this legislation is to prevent the misuse of shell companies for tax purposes, amending Directive 2011/ 16/ EU. The legislation will tackle legal entities of minimal substance which do not perform any economic activities and are used for the purposes of tax avoidance and evasion.

The directive sets out three ‘gateway’ criteria to identify shell entities. Entities that meet all three gateway criteria are required to report on whether they meet the minimum substance requirements through their annual tax returns. If an entity does not meet all of the minimum substance requirements (or does not provide sufficient documentary evidence) it will be classified as a shell entity and will be denied access to tax treaties and denied tax benefits under the Parent-Subsidiary and Interest and Royalties Directives.

Certain entities are excluded from the proposed directive, such as listed companies, regulated financial undertakings,

domestic holding entities and entities that have at least five full-time employees exclusively carrying out income-generating activities. An entity can also be exempted if it can prove that there is no tax advantage arising from its use.

Latest stage: The Commission proposed this directive in late 2021, and it is currently in discussions within the Council. It is intended that the directive will come into force as of 1 January 2024.

Proposal for a Directive laying down rules on a debt equity bias reduction allowance and on limiting the deductibility of interest for corporate income tax purposes

Procedure reference: 2022/0154 (CNS)

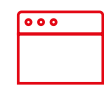
Date published: 11 May 2022

The proposed directive seeks to introduce two new tax measures: (i) an ‘allowance on equity’ that would provide a tax deduction to taxpayers that increase their equity capital compared to their previous tax year and (ii) a proposal to further refine the existing interest limitation rule. DEBRA is proposed to apply to all taxpayers subject to ‘corporate income tax’ in EU Member States. A number of exclusion are proposed, including exclusions for AIFs, UCITS, AIFMs, credit institutions, insurance undertakings,

certain securitisation entities and other taxpayers.

Latest stage: The proposal is in draft form and a consultation and feedback period remains open until 18 July 2022. DEBRA will likely develop and mature as stakeholder involvement takes place and it will ultimately require unanimous approval from all Member States.

Read more: [Matheson Insight Article on the DEBRA directive](#).



Proposal for a Council Directive amending Directive 2006/112/EC as regards the Introduction of the Detailed Technical Measures for the Operation of the Definitive VAT System for the Taxation of Trade between Member States

Procedure reference: 2018/0164 (CNS)

Date published: 25 May 2018

This proposal, if adopted, would significantly change the existing VAT system as it applies to business to business (“**B2B**”) transactions involving cross-border supplies of goods, implementing a destination basis to such supplies. That change would also require changes to the place of supply rules for B2B transactions. In addition, the Mini One Stop Shop system which currently is available to suppliers in respect of certain business to consumer transactions would be extended to apply to B2B transactions. Finally, the proposal would introduce a new concept of ‘certified taxable person’ which could alter the person accountable for VAT on certain supplies.

Latest stage: On 12 February 2019, the European Parliament voted in plenary to adopt the proposal with amendments. The Council has yet to adopt the proposal. Discussion on this proposal is on-going at working party level.

The following initiatives, which are very significant, have been discussed in the Spring Horizon Tracker. We will continue to provide updates on any changes.

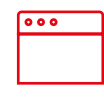
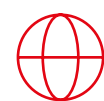
CCCTB: Proposed Directive on a Common Consolidated Corporate Tax Base and CCTB: Proposed Directive on a Common Corporate Tax Base

Procedure reference: 2016/0336 (CNS) and 2016/0337 (CNS)

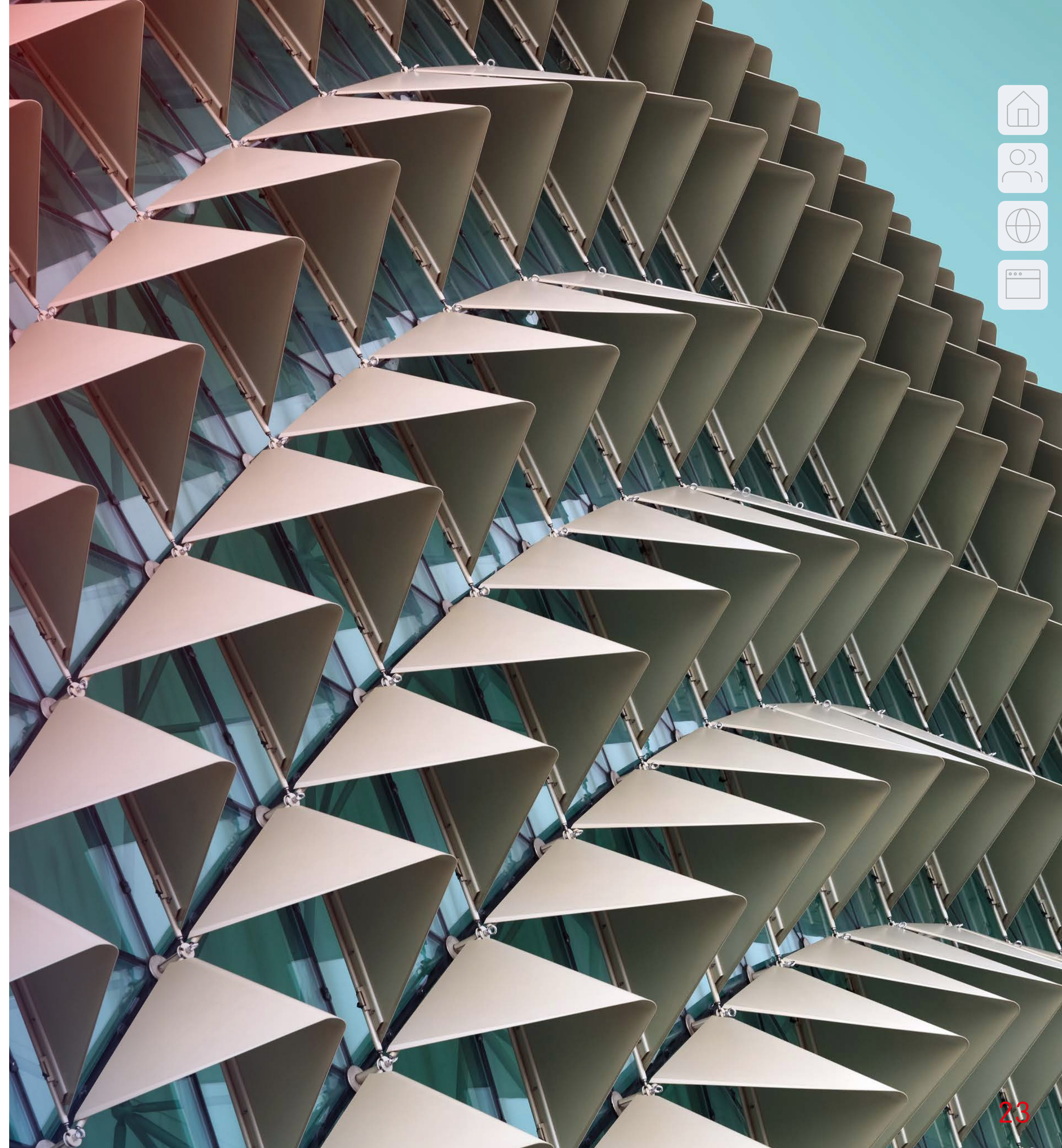
Date published: 25 October 2016

The Commission Communication outlines a proposal for a new framework for income taxation for businesses in Europe, the Business in Europe: Framework for Income Taxation (“**BEFIT**”). Under the BEFIT proposal profits of the EU members of a multinational group will be consolidated into a single tax base, which will then be allocated to Member States using a formula to be taxed at national corporate income tax rates. The proposal will feature a different apportionment formula from the prior proposals (**CCCTB** and **CCTB**) to better reflect global developments, in particular by taking account of digitalisation. A proposed framework for BEFIT will be published by 2023.

Latest stage: On 15 March 2018, the European Parliament voted in plenary to adopt the proposals with amendments. The Council has not adopted these proposals to date and the Commission Communication states these proposals will be withdrawn and replaced by BEFIT.



Sustainable Finance





EU Legislation

Delegated Regulation Supplementing the SFDR on RTS on Content and Presentation of Sustainability Disclosures

Date published: 6 April 2022

On 6 April 2022, the Commission adopted a delegated regulation supplementing the Sustainable Finance Disclosure Regulation (“SFDR”) (Regulation (EU) 2019/2088) with regard to Regulatory Technical Standards (“RTS”) specifying the details of the content and presentation of the information in relation to the principle of “do no significant harm”, specifying the content, methodologies and presentation of information in relation to sustainability indicators and adverse sustainability impacts, and the content and presentation of the information in relation to the promotion of environmental or social characteristics and sustainable investment objectives in pre-contractual documents, on websites and in periodic reports.

The Commission has also published the following Annexes to the draft Delegated Regulation:

- Annex 1:** Template principal adverse sustainability impacts statement.
- Annex 2** and **Annex 3:** Template pre-contractual disclosure for Article 8 and Article 9 products .

Annex 4 and **Annex 5:** Template periodic disclosure for Article 8 and Article 9 products .

The delegated regulation is now subject to a three month scrutiny period (extendable to six months) by the European Parliament and the Council of the EU. If there are no objections, the delegated regulation will enter into force 20 days after its publication in the Official Journal of the EU and is expected to apply from 1 January 2023.

Applies from: Expected application date 1 January 2023

Sustainable Finance: Regulation on the Establishment of a Framework to Facilitate Sustainable Investment – The Taxonomy Regulation

Date published: 22 June 2020

This regulation – known as the Taxonomy Regulation (Regulation (EU) 2020/852) – forms part of the package of reforms published by the Commission in 2018 relating to its Sustainable Finance Action Plan. The regulation on the establishment of a framework to facilitate sustainable investment establishes an EU-wide classification system or taxonomy intended to provide businesses and investors with a common language to identify to what degree economic activities can be considered environmentally sustainable. The regulation sets out uniform criteria for determining whether an economic activity is environmentally sustainable.

Applies from: The Taxonomy Regulation applied from 1 January 2022 with respect to activities that substantially contribute to climate change mitigation and adaptation. The regulation will apply with respect to activities that substantially contribute to the other environmental objectives (sustainable use and protection of water and marine resources; transition to a circular economy; pollution prevention and control; protection and restoration of biodiversity and ecosystems) from 1 January 2023. Article 8 of the Taxonomy Regulation requires additional disclosures from companies in scope of the non-financial reporting framework. Pursuant to the delegated act adopted under Article 8 of the Taxonomy Regulation, qualitative reporting by in-scope undertakings was required from 1 January 2022, with further requirements applicable to non-financial undertakings from 1 January 2023 and to financial undertakings from 1 January 2024.

Sustainable Finance: Delegated Acts amending UCITS Directive, AIFMD, MiFID II, Solvency II and Insurance Distribution Directive

On 2 August 2021, various amending measures were published in the Official Journal of the EU which will require impacted firms to integrate sustainability risks and factors into their policies and procedures.



- Commission Delegated Directive (EU) 2021/1270 amending the UCITS Delegated Directive (EU) 2010/43
- Commission Delegated Regulation (EU) 2021/1255 amending the AIFMD Delegated Regulation (EU) 231/2013
- Commission Delegated Directive (EU) 2021/1269 amending MiFID II Delegated Directive (EU) 2017/593
- Commission Delegated Regulation (EU) 2021 / 1253 amending MiFID II Delegated Regulation 2017/565
- Commission Delegated Regulation (EU) 2021 / 1256 amending Solvency II Delegated Regulation (EU) 2015/35
- Commission Delegated Regulation (EU) 2021 / 1257 amending Insurance Distribution Delegated Regulations (EU) 2017/2358 and (EU) 2017/2359

The level 2 measures incorporate sustainability issues and considerations into the EU financial services regulatory framework, including the UCITS Directive, AIFMD, MiFID II, the Solvency II Directive (Directive 2009/138/EC) and the Insurance Distribution Directive (Directive (EU) 2016/97). The delegated acts will apply from **August 2022**, with the exception of the delegated regulation relating to the integration of sustainability factors into the product governance obligations under MiFID II, which will apply from **22 November 2022**.

EU DRAFT LEGISLATION

Proposal for a Directive Amending the Non-Financial Reporting Directive as regards Corporate Sustainability Reporting

See [Corporate](#) section.

Proposal for a Corporate Sustainability Due Diligence Directive

See [Corporate](#) section.

Proposed Regulation on EU Standards for ‘Green Bonds’

Procedure reference: 2021/0191 (COD)

Date published: 7 July 2021

This proposed regulation aims to attract more finance for sustainable investment by establishing an EU standard for ‘green bonds’, setting out clearly which assets and projects the money generated by those companies who are issuing bonds on the capital markets can be used for. It builds on a June 2019 report by the Commission’s technical expert group on sustainable finance which recommended clear and comparable criteria for issuing green bonds.

Latest stage: On 16 May 2022, the ECON Committee decided to open inter-institutional negotiations with the report adopted in committee, 1st reading.

Asset Management and Investment Funds



IRISH PROPOSED LEGISLATION

Central Bank Plans to Transpose AIF Rulebook

The Central Bank is planning to transpose its [AIF Rulebook](#) into a statutory instrument, similar to the approach adopted in relation to the Central Bank's UCITS requirements. It had been expected that draft Central Bank AIF Regulations might be published by the end of 2019, but this initiative has been delayed. It is anticipated that the new Central Bank AIF Regulations will be subject to a three month consultation period.

CENTRAL BANK GUIDANCE

Central Bank Guidance on Performance of UCITS and Certain Types of Retail AIFs

On 1 April 2021, the Central Bank published guidance on Performance Fees of UCITS and Certain Types of Retail Investor AIFs (the "Central Bank Guidance"), which followed an initial consultation and partially implements the ESMA [guidelines](#) on performance fees published 5 November 2020.

The Central Bank is implementing the ESMA guidelines on a phased basis due to the need to: (a) consult on amending the domestic framework; (b) to reflect the transitional periods provided under the ESMA guidelines; and (c) to

maintain a consistent approach for retail investor funds. There will be a further consultation on amending legislation to incorporate the ESMA guidelines into the [CBI UCITS Regulations](#) and the [AIF Rulebook](#), as the Central Bank considered that it was not possible to implement certain features of the ESMA guidelines with immediate effect from their date of application. The second Central Bank consultation is expected to be published this year.

CENTRAL BANK DEADLINES

Registration of Beneficial Ownership of Certain Financial Vehicles

On 1 July 2021, the EU (Modifications of Statutory Instrument No. 110 of 2019) (Registration of Beneficial Ownership of Certain Financial Vehicles) (Amendment) Regulations 2021 (SI No. 321 of 2021) (the "**Amending Regulations**"), amending the EU (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019, came into effect.

A resubmission of all beneficial ownership details was required by eligible entities in December 2021. The Central Bank has advised that a further resubmission of beneficial ownership information will be requested in 2022. The Central Bank had previously indicated that beneficial owner PPS numbers would be collected from Q2 2022. On 31

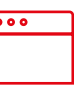
March 2022, the Central Bank advised that collection will now take place from **Q3 2022**. Further guidance in relation to the process, and the collection and validation of PPS numbers, will be provided in advance of the resubmission window opening. For beneficial owners who do not hold a PPS number, the beneficial owner will be obliged to provide a Declaration as to Verification of Identity, to be verified and witnessed prior to submission to the Central Bank.

CENTRAL BANK CONSULTATIONS

Central Bank Consultation on Property Funds

On 25 November 2021, the Central Bank published a [consultation paper](#) ("**CP145**") on macroprudential measures for the property fund sector. The publication of CP145 follows recent regulatory focus on the Irish property fund sector, looking at leverage and liquidity mismatch as potential sources of financial vulnerability that could affect the resilience of this form of financing in future periods of stress. The Central Bank is proposing the introduction of leverage limits on Irish domiciled funds which invest over 50% directly or indirectly in Irish property assets and additional guidance to limit liquidity mismatch.

The consultation period closed on **18 February 2022**. No indication is given in the consultation paper as to when the changes will be introduced.



For more information, see our briefing note [Central Bank of Ireland Consultation on Property Funds November 2021](#).

EU LEGISLATION

Packaged Retail and Insurance-based Investment Products Regulation – Level 2 Amendments

Date published: 20 December 2021

On 20 December 2021, amendments to Commission Delegated Regulation (EU) 2017/653 (“PRIIPs RTS”) in the form of Commission Delegated Regulation (EU) 2021/2268 were published in the Official Journal of the EU. The amendments to the PRIIPS RTS include changes to rules on calculating and presenting forward-looking performance scenarios, calculation and presentation of costs-related information as well as introducing specific rules which must be complied with by any PRIIPS KID published by in-scope UCITS and AIFs.

Applies from: 1 July 2022. However, the Commission has indicated that amendments to the RTS will be published in the Official Journal of the EU in Q2 2022, which will amend the application date to 31 December 2022. This will align with the date upon which the PRIIPs Regulation will apply to UCITS.

Sustainable Finance: Regulation on the Establishment of a Framework to Facilitate Sustainable Investment – The Taxonomy Regulation

See [Sustainable Finance](#) section.

EU DRAFT LEGISLATION

Proposal for a Directive amending the AIFMD and the UCITS Directive

Procedure reference: COM(2021)721

Date published: 25 November 2021

On 25 November 2021, the Commission published a legislative [proposal](#) to amend the AIFMD as part of the CMU Legislative Package. The Commission has set out targeted proposals, which would amend both the UCITS and AIFMD frameworks, including the introduction of minimum substance requirements where an EU fund management company delegates functions to a third country entity and an enhanced regulatory supervision framework for third country delegation arrangements. New rules addressing the use of liquidity management tools to ensure supervisory convergence across EU member states are also proposed. The Commission has also suggested increased reporting requirements for both UCITS and AIFs to facilitate monitoring systemic risk.

Latest stage: The publication of the proposal by the Commission is the first step in the legislative process and there is likely to be significant debate between the EU law-making institutions on the proposals over the coming 12 to 18 months, which may lead to changes to the proposed text. The French Presidency of the Council of the EU has expressed a commitment to progress this file during its term (which runs until the end of June 2022). Member states will have 24 months after entry into force of the amending directive to transpose the requirements into national law.

Delegated Regulation Supplementing the SFDR on RTS on Content and Presentation of Sustainability Disclosures

See the [Sustainable Finance](#) section.

EU CONSULTATIONS

European Commission Targeted Consultation on the Money Market Fund Regulation

The [Money Market Fund Regulation](#) (EU Regulation 2017/1131 – “**MMFR**”) requires the Commission to submit a report to the co-legislators assessing the adequacy of the MMFR from a prudential and economic point of view. On 12 April 2022, the Commission published its targeted consultation on the functioning of the MMFR. The consultation targets the relevant stakeholders and users of



money market funds (“**MMFs**”), in particular the investors and managers of MMFs, seeking feedback on the impact of the MMFR on stakeholders, its different economic aspects and its role in the EU economy. This consultation will be informed by a comprehensive questionnaire that aims to complement the information collected by the other ESAs.

The deadline to respond to the questionnaire was 13 May 2022. The feedback will inform the Commission’s report, which may propose changes to the MMFR. It is not clear as yet when the report will be published.

ESMA Consultation on Notifications for Cross-Border Marketing and Management of Funds

On 17 May 2022, ESMA published a consultation on the information and templates to be provided and used by firms when they inform regulators of their cross-border marketing and management activities under the UCITS Directive and the AIFMD. The closing date for responses to the consultation is **9 September 2022**. Following the consultation period, draft RTS and implementing technical standards (“**ITS**”) will be finalised and submitted to the Commission.

EU REGULATORY INITIATIVES

ESMA Common Supervisory Action on Valuation

The common supervisory action (“CSA”) with NCAs focusing on the compliance of authorised managers of UCITS and open-ended AIFs with the relevant valuation-related provisions in the UCITS and AIFMD frameworks, in particular the valuation of less liquid assets, is ongoing. The Central Bank has issued a qualitative questionnaire requesting information and relevant supporting documents, together with an FAQ, to a sample of managers.



Financial Services Regulation



IRISH LEGISLATION PASSED SINCE THE SPRING HORIZON TRACKER

Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2022

This legislation has now been enacted. See further actions required that are described below.

IRISH PROPOSED LEGISLATION

Central Bank (Individual Accountability Framework) Bill

Latest stage: General Scheme published on 27 July 2021 and Report on PLS published 5 April 2022. This bill is listed as Priority Legislation in the Summer Legislative Programme.

As an update on our Spring Horizon Tracker, the Department of Finance indicated that a May 2022 publication date for the bill was likely. However, an issue has arisen which may have an impact on the timeline for its publication. That is the adaptation of the bill to reflect the outcome of the Supreme Court decision in *Zalewski v Adjudication Officer and Others*. As a result of the judgment the Central Bank's powers could be impacted ([See thematic updates for more detail](#)).

BILLS

Insurance (Miscellaneous Provisions) Bill

The bill was mentioned and described in the Spring Horizon Tracker and had been indicated as priority legislation in the Spring legislative programme. Considerable progress has been made on this legislation as described below. The legislation seeks to address several insurance-related issues that have come to light since the Action Plan for Insurance Reform was published in December 2020, including:

- The practice of insurers deducting Government payments from COVID-19-related claims settlements.
- Price Walking.
- Necessary amendments to the Consumer Insurance Contracts Act: and
- Necessary amendments to the Temporary Run-off Regime

Latest stage: The bill was published on 1 April 2022 and is currently before Seanad Éireann, Second Stage.

Consumer Rights Bill 2022 – Please refer to the [Data Protection, Privacy and Technology](#) section.

Assisted Decision-Making (Capacity) (Amendment) Bill 2022 – Please see the section on [Other Important Legislation](#).

ACTS AWAITING COMMENCEMENT

Health Insurance Amendment Act 2021

This act which amends the Health Insurance Act 1994 to specify the amount of premium to be paid from the Risk Equalisation Fund in respect of certain classes of insured persons from 1 April 2022 was described in our Spring Tracker. The remaining sections of the act have now been commenced.

Commencement: Section 8 was commenced on 1 January 2022. The remaining sections save for paragraphs (b) and (c) of section 5 were commenced on 1 April 2022.

Consumer Insurance Contracts Act 2019

This legislation was described in the [Spring Horizon Tracker](#). We will continue to update you as changes occur.

STATUTORY INSTRUMENTS

Central Bank (Supervision and enforcement) Act 2013 (Section 48(1)) (Insurance Requirements) Regulations 2022

On 15 March 2022, the Central Bank published the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Insurance Requirements) Regulations 2022 following its consultation paper on its recommendations



on the Review of Differential Pricing in the Private Car and Home Insurance Markets (“CP143”) published in July 2021

The Regulations provide for the following:

- Price walking ban: The Central Bank is banning the practice of “price walking.” As of 1 July 2022, insurers cannot charge consumers who are on their second or subsequent renewal a higher premium than they would have charged them if they were renewing for the first time. However, new customer discounts will be allowed under the Regulations to support competition and switching;
- Review of pricing policies and processes: Insurers will be required to review their pricing policies and processes annually. The aim of this new requirement is to ensure that insurers maintain focus on their pricing practices and the impact these practices may have on consumers and also to ensure adherence to new pricing provisions and the fair treatment of consumers; and
- Automatic renewal process: For automatic renewals insurers will be required to provide policyholders with additional information in advance of the automatic renewal of their insurance policy, including the right to cancellation.

Applies from: 1 July 2022.

Central Bank Reform Act 2010 (Sections 20 And 22) (Amendment) Regulations 2022 – Amending the list of Pre-Approval Controlled Functions

On 5 April 2022, the Central Bank published the **Central Bank Reform Act 2010 (Sections 20 And 22) (Amendment) Regulations 2022** which update the list of pre-approval controlled functions (“PCFs”).

The Amending Regulations set out the Central Bank’s amendments to the list of PCFs as follows:

- Splitting the existing PCF-2 Non-executive director into PCF-2A Non-executive director and PCF2-B Independent non-executive director;
- Amending the titles of the roles which relate to the chairing of a board or committee i.e. PCF-3 – PCF-7;
- Expanding PCF-16 Branch Manager of branches in other EEA countries to include branch managers in non-EEA countries;
- Removing PCF-31 Head of Investment; and
- Removing the existing PCF-15 Head of Compliance with responsibility for Anti-Money Laundering and Counter Terrorist Financing Legislation and introducing PCF-52 Head of Anti-Money Laundering and Counter Terrorist Financing Compliance.

Applies from: The Regulations were accompanied by a

feedback statement setting out the Central Bank’s views on the submissions received in respect of the Notice of Intention to amend the list of PCFs issued in September 2021

The in-situ process was originally expected to commence on 25 April 2022 and end on 3 June 2022, as indicated in the feedback statement, however, on 12 May 2022 the Central Bank published Guidance for the notification process for in-situ individuals extending the in-situ period to 30 June 2022.

CENTRAL BANK INITIATIVES

Central Bank Dear CEO Letter on the withdrawal of retail banks from the Irish market

On 27 April 2022, the Central Bank issued a **Dear CEO letter** to the CEOs of the 5 major retail banks in Ireland. The letter reinforces and clarifies the application of the Central Bank’s expectations set out in its letter of June 2021 specifically on the following five risks: notice periods; application of the switching process; new provider making commercial decisions in a manner that facilitates a customer making and executing a switch; direct debit originators and/or other service providers; and vulnerable customers.

The Central Bank stressed that all duties of the existing provider under the requirements of Irish financial services



legislation, including the Central Bank's statutory codes of conduct, remain until the customer has been properly on-boarded to another provider and that the legislation also applies to any prospective new provider to whom that customer wishes to switch their account.

The Central Bank issued a separate letter to a number of the top twenty direct debit originators, which are regulated firms, reiterating to them, their duty to take action to ensure the smooth and timely switch of a customer's account in this situation.

Latest stage: The departing banks will issue letters in phases with a view to managing the flow of migrations over the period 2022 into 2023. The Central Bank will repeat its review of call wait times on customer support phone lines in the main retail banks in Q2 2022.

Central Bank Dear CEO letter on MiFID Structured Retail Product Review

On 22 April 2022, the Central Bank issued a **Dear CEO letter** outlining the findings from a series of targeted reviews of Structured Retail Products ("**SRPs**") as well as detailing the Central Bank's expectations of regulated entities when implementing the relevant MiFID II requirements.

The reviews examined SRPs manufactured and distributed by investment firms in the MiFID investment sector. A

number of areas were identified where further action is needed by firms to ensure correct governance and oversight of SRPs.

Latest stage: The Central Bank requires all firms who manufacture, distribute or otherwise offer SRPs to conduct a thorough review of their SRP arrangements and controls, including:

- Presenting this letter as a formal agenda item for discussion at the firm's next Board meeting, and for the discussion to be recorded in the meeting minutes;
- Undertaking a full review of current SRP arrangements and controls against the findings and expectations outlined in this letter, to include SRP design, manufacture and distribution, processes, procedures, training materials, templates and disclosures; and
- Documenting the review including details of actions taken or planned to address matters raised in the Dear CEO letter. This review should be completed and an action plan discussed and approved by the firm's Board by the end of Q3 2022. The action plan must include clear and reasonable timelines for implementation of mitigating actions with appropriate governance and sign-off.

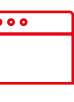
Central Bank statement on MiFID investment firms authorised to provide MiFID activities 3 and/ or 6

This statement has been described in the **Spring Horizon Tracker**. We will continue to update you as changes occur.

Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2022 – Authorisation Requirements and consequential amendments to the Consumer Protection Code 2012, Minimum Competency Code 2017 and Minimum Competency Regulations 2017.

The Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2022 was **commenced** on 16 May 2022. Following enactment of this legislation, the Central Bank licencing requirements have been extended to certain entities providing credit (directly or indirectly) through hire-purchase agreements or consumer-hire agreements (retail credit firms) and entities that own or service these agreements (credit servicing firms), unless otherwise licenced to carry out such activity.

On the same date, the Central Bank published an **addendum to the Consumer Protection Code ("CPC")**, an **addendum to the Minimum Competency Code ("MCC")** and an **amendment to the Minimum Competency Regulations ("MCR")**.



In order to apply the CPC to the newly in-scope firms an addendum to the CPC was necessary. The addendum removes previous exemptions applicable to low-value credit (under €200), hire-purchase agreements and consumer-hire agreements and clarifies the scope of the European Communities (Consumer Credit Agreements) Regulations 2010 to Buy Now Pay Later agreements.

While the MCC already applied to the provision of hire-purchase and consumer-hire agreements by credit institutions, the addendum to the MCC was necessary to bring the new retail credit firm and credit servicing firm activities within the scope of the MCC and to give persons providing these activities a maximum period of four years to become compliant with the MCC. The amendment to the MCR was necessary to outline the obligations on regulated firms regarding this transitional arrangement.

Read more: Matheson Insights: (Written before the Bill was passed into legislation). [Central Bank Notice of Intention regarding upcoming changes following enactment of the Consumer Protection \(Regulation of Retail Credit and Credit Servicing Firms\) Bill 2021.](#)

Applies from: Applications for authorisation must be made within three months of commencement of the legislation - deadline 16 August 2022. The effective date for the addendum to the CPC is 16 August 2022. The transitional arrangements for the application of the MCC and MCR to

the newly in scope activities is 16 May 2026. It is important to note, however, that the Central Bank has advised that it expects individuals and firms to meet the necessary minimum standards at the earliest possible opportunity from the date of commencement (16 May 2022).

CENTRAL BANK GUIDELINES

Central Bank issues its Final Guidance on the use of Service Companies in the Insurance Sector

Central Bank Cross-Industry Guidance on Outsourcing
Central Bank Cross Industry Guidance on Operational Resilience

The above guidelines have been described in the [Spring Horizon Tracker](#).

We will continue to update you as changes occur.

CENTRAL BANK CONSULTATIONS

CP146 – Mortgage Measures Framework Review

This Consultation has been described in the [Spring Horizon Tracker](#).

DEPARTMENT OF FINANCE CONSULTATIONS

Public Consultation on the Development of a National Resolution Framework for (Re)Insurers

In our [Spring Horizon Tracker](#) we described this public consultation. This consultation closed on 30 November 2021. The latest developments are described below.

Latest stage: On 16 May 2022, the Department of Finance published the feedback statement from the public consultation. The feedback statement notes that since the consultation was launched, the European Commission has published its proposal for an Insurance Recovery and Resolution Directive (“**IRR**D”) (discussed below) and this proposal is at present, in many ways, aligned with the Ireland’s proposed potential domestic framework.

Taking this into account and noting the preference expressed by many stakeholders for an EU harmonised insurance resolution framework rather than a stand-alone domestic framework, the Department of Finance and Central Bank will instead input constructively into the IRRD as a means to progress a resolution framework for insurers and will not proceed with a domestic framework. However, the Department noted that in a scenario where there is undue delay to the introduction of an EU framework, the Department and the Central Bank reserve the right to revisit the domestic proposal.



Insolvency Regime for Insurers

In parallel to the progression of the IRRD, the Department of Finance and the Central Bank will continue to review the existing corporate insolvency regime for (re)insurers, which was discussed in Chapter 4 of the Consultation Paper. The Department, in collaboration with the Central Bank, will seek, over the next few years, to examine and remedy weaknesses in the current corporate insolvency regime as it applies to insurers, including considering any required legislative amendments.

EU DIRECTIVES AWAITING IMPLEMENTATION

Directive on the Prudential Supervision of Investment Firms

Directive Amending the Motor Insurance Directive

The above directives have been described in the [Spring Horizon Tracker](#). We will update you as changes occur.

EU REGULATIONS

Regulation on European Crowdfunding Service Providers for Business

Regulation on a Framework on the Recovery and Resolution of Central Counterparties

The above Regulations have been described in the [Spring Horizon Tracker](#). We will update you as changes occur.

EU INITIATIVES

EU Consumer Agenda

European Commission Action Plan on FinTech

Both of these initiatives have been described in the [Spring Horizon Tracker](#). We will update you as changes occur.

Digital Euro Project

In January 2021, the Commission and the ECB, commenced their exploration of the possibility of issuing a digital euro, as a complement to cash and other payment solutions. The project aims to answer key design and technical questions and provide the ECB with the necessary tools to stand ready to issue a digital euro if such a decision is taken.

Latest stage: On 14 July 2021, the Governing Council of the ECB launched the investigation phase of a digital euro project. The investigation phase will last 24 months and aims

to address key issues regarding design and distribution.

As part of the investigation phase, in April 2022 the ECB launched an exercise to explore user interface solutions for making payments with digital euro and the Commission published a targeted consultation on a digital euro. The consultation closes on 14 June 2022.

On 16 May 2022, in his Keynote speech at the National College of Ireland, Fabio Panetta, Member of the Executive Board of the ECB, advised that at the end of 2023 the ECB “*could decide to start a realisation phase to develop and test the appropriate technical solutions and business arrangements necessary to provide a digital euro*” and this phase “*could take three years*”.

European Commission Action Plan for a Comprehensive Union Policy on AML / CFT

European Commission Targeted Consultation on Supervisory Convergence and the Single Rulebook

Both of these initiatives have been described in the [Spring Horizon Tracker](#). We will update you as changes occur.

EU Banking Package

On 27 October 2021, the Commission adopted a legislative package implementing the Basel 3 Reforms. The proposals aim to ensure that EU banks become more resilient to potential future economic shocks, while contributing to



Europe’s recovery from the COVID-19 pandemic and the transition to climate neutrality.

The package consists of the following elements (detailed further below):

- a legislative **proposal to amend the Capital Requirements Directive** (Directive 2013/36/EU);
- a legislative **proposal to amend the Capital Requirements Regulation** (Regulation 2013/575/EU);
- a separate **legislative proposal to amend the Capital Requirements Regulation in the area of resolution** (the “daisy chain” proposal).

Latest stage: All three proposals are currently at first reading in the European Parliament and Council.

EU GUIDELINES

EBA Guidelines for institutions and resolution authorities on improving banks’ resolvability and consults on transferability

These Guidelines have been described in the [Spring Horizon Tracker](#).

EIOPA consultation on draft Guidelines on integrating the customer’s sustainability preferences in the suitability assessment under the IDD

On 13 April 2022, EIOPA launched a public consultation on draft Guidelines on integrating the customer’s sustainability preferences in the suitability assessment under the IDD. The Guidelines stem from **Commission Delegated Regulation (EU) 2021/1257** and aim to promote a coherent application of the Delegated Regulation, restrict the potential for the mis-selling of insurance products with regard to the sustainability preferences of consumers and promote a more convergent approach to the supervision of insurance undertakings and insurance intermediaries by National Competent Authorities (“NCAs”).

Latest stage: The consultation closed for feedback on 13 May 2022. EIOPA has shortened the consultation period to make it possible to finalise the guidelines in time for the application date of 2 August 2022 of Delegated Regulation (EU) 2021/1257.

EIOPA Guidelines on Contract Boundaries and the Valuation of Technical Provisions

On 21 April 2022, EIOPA published two final reports:- the Final Report on the revision of the EIOPA Guidelines on Contract Boundaries and along with the Final report on the revision of the EIOPA Guidelines on the Valuation of Technical Provisions.

During the 2020 review of Solvency II, EIOPA identified

several divergent practices regarding contract boundaries assessment and the valuation of best estimate. On the back of this, EIOPA revised these guidelines to provide additional guidance through the issuance of new guidelines and amending some current guidelines on a limited number of topics including: Modelling Biometric Factors; Apportionment of Expenses; Changes in Expenses; Assumptions used to calculate Expected Profits in Future Premiums; and Unbundling of contracts.

Latest stage: The new and amended guidelines will be applicable from 1 January 2023, unless otherwise decided by NCAs.

EU DRAFT LEGISLATION

Proposal for a Regulation on Digital Operational Resilience for the Financial Sector

This proposal has been described in the [Spring Horizon Tracker](#). We will update you as changes occur.

Proposal for a Directive on Distance Marketing of Consumer Financial Services

Procedure reference: COM/2022/204

Date published: 11 May 2022

This proposal amends the existing Distance Marketing of Financial Services Directive (Directive 2002/65/



EC) to strengthen consumer rights and foster the cross-border provision of financial services. This market has significantly evolved since the rules were first introduced with the overall digitalisation of the sector and the new types of financial services that have been developed. These developments have been further enhanced by the impact of COVID 19, which greatly contributed to an increase in online transactions

Latest stage: First reading in the European Parliament and Council.

All of the legislative developments listed below have been described in our [Spring Horizon Tracker](#). We will update you as changes occur.

Proposal for a Regulation on Markets in Crypto-assets

Proposal for a Directive to Prevent the Use of the Financial System for Money Laundering or Terrorist Financing

Proposal for a Regulation Establishing the Authority for AML / CFT

Proposal for a Regulation on the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing

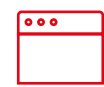
Proposal for a Regulation on information accompanying transfers of funds and certain Crypto-Assets (recast)

Proposal for a Directive on a regulatory framework for investment firms and market operators

Proposal for a Directive to amend the Solvency II Directive as regards Proportionality, Quality of Supervision, Reporting, Long-term Guarantee Measures, Macro prudential Tools, Sustainability Risks, Group and Cross border Supervision

Single Resolution Mechanism: Proposal to Establish a European Deposit Insurance Scheme

Proposal for a Directive Establishing a Framework for the Recovery and Resolution of Insurance and Reinsurance Undertakings



Finance and Capital Markets





BILLS

Bretton Woods Agreements (Amendment) Bill

This bill will facilitate Ireland’s participation in the International Monetary Fund’s New Arrangements to Borrow (“NAB”) and enable grant contributions to IMF Trust Funds to deal with pressing global issues such as COVID-19, debt sustainability and vaccines. The NAB supplement IMF resources to forestall or cope with an impairment of the international monetary system. Through the NAB, a number of member countries and institutions stand ready to lend additional resources to the IMF. In January 2021, a reform of the NAB took effect following consents from NAB participants, almost doubling the size of the NAB to SDR 361 billion (US\$521 billion) for the period from 2021 to 2025. With this bill, Ireland prepares take its place as a contributor to the NAB, which is another step in Ireland’s growth in stature on the international stage.

Latest stage: Fourth stage, Dáil Éireann.

Air Navigation and Transport Bill 2020

Date published: 4 December 2020

A bill to facilitate reform of safety and economic regulatory oversight of the aviation sector in Ireland by merging the Safety Regulation side of the Irish Aviation Authority

(“IAA”) with the Commission for Aviation Regulation (“CAR”) to create a standalone aviation regulator. The for-profit air navigation side of the IAA will become a separate commercial agency. It will also amend the regulation of airport charges in Ireland, strengthening regulation, governance and enforcement.

Latest stage: Third Stage, Seanad Éireann.

EU DRAFT LEGISLATION

Proposal for a Regulation on the Law Applicable to the Third-Party Effects of Assignments of Claims

Procedure reference: 2018/0044 (COD)

Date published: 12 March 2018

This regulation proposes to set down uniform rules on the ownership of claims and securities in cross-border transactions. It seeks to designate which national law will designate the ownership of a claim after it has been assigned on a cross-border basis. It forms part of the legislative package to establish the Capital Markets Union with the aim that legal certainty will promote cross-border investment, access to cheaper credit and market integration.

Latest stage: Council approved its general approach on 7 June 2021.

Directive on the Issue of Covered Bonds and Covered Bond Public Supervision

Date published: 18 December 2019

In March 2018, the Commission adopted a package of measures to deepen the Capital Markets Union aiming to create an enabling framework at EU level to enhance the use of covered bonds as a stable and cost-effective source of funding for credit institutions. The framework consists of a directive (Directive (EU) 2019/2162) and regulation (Regulation (EU) 2019/2160). This directive specifies the core elements of covered bonds and provides a common definition intended by the Commission as a consistent and sufficiently detailed point of reference for prudential regulation purposes, applicable across financial sectors.

It sets out rules on the requirements for issuing covered bonds; the structural features of covered bonds; covered bond public supervision; rules allowing for the use of the “European Covered Bonds” label and public participation for competent authorities for investor protection.

Transposition date: Transposition measures will come into effect on 8 July 2022.



Regulation on Exposures in the Form of Covered Bonds

Date published: 18 December 2019

Alongside the Commission’s directive on the issue of covered bonds and covered bond public supervision, the Commission published this regulation (Regulation (EU) 2019/2160) addressing exposures in the form of covered bonds amending the Capital Requirements Regulation (Regulation (EU) No 575/2013). The regulation and the directive together form the new EU framework for covered bonds. The regulation mainly amends article 129 of the Capital Requirements Regulation, adding requirements on minimum overcollateralisation and substitution assets. The proposal is intended to strengthen the requirements for covered bonds being given preferential capital treatment.

Applies from: 8 July 2022



Click the links below for information on further related legislative and regulatory developments

Regulation on Disclosures Relating to Sustainable Investments and Sustainability Risks

Proposal for a Regulation on Digital Operational Resilience for the Financial Sector

Regulation on the Establishment of a Framework to Facilitate Sustainable Investment – The Taxonomy Regulation

Proposal for a Regulation on Markets in Crypto-Assets

Delegated Acts amending UCITS Directive, AIFMD, MiFID II, Solvency II and Insurance Distribution Directive

European Commission Action Plan for a Comprehensive Union Policy on AML / CFT

Proposal for a Directive laying down rules to prevent the misuse of Shell Entities for Tax Purposes

Proposal for a Directive Amending the Non-Financial Reporting Directive as regards Corporate Sustainability Reporting

Consumer Rights Bill 2022

Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2022

Regulation on European Crowdfunding Service Providers for Business

Commercial Real Estate



IRISH PROPOSED LEGISLATION

Planning and Development Bill

This bill will review and replace the Planning and Development Act 2000 with a consolidated bill improving the clarity and structure of the current code.

Latest stage: Work is underway. Listed as priority legislation in the Summer Legislative Programme. The Minister for Housing, Local Government and Heritage Darragh O'Brien TD recently stated at a conference that he hopes to have a draft bill in September 2022 which will be enacted before year end.

Tailte Éireann Bill

This bill provides for the establishment of Tailte Éireann, a single body incorporating Ordnance Survey Ireland, the Valuation Office and the Property Registration Authority.

Latest stage: Heads of Bill approved 22 December 2020, PLS has taken place. Listed as Priority Legislation in the Summer Legislative Programme 2022.

Property Services Regulation (Amendment) Bill

This bill will revise the Property Services Regulation Act 2011 in light of EU regulations and European Court of Justice

case law on the recognition of professional qualifications and the supply of services in the EU.

Latest stage: Heads of Bill in preparation.

Housing (Miscellaneous Provisions) Bill

This bill will amend the existing provisions in respect of social housing assessments, rent schemes and tenant purchase.

Latest stage: Work is underway.

Land Value Sharing and Urban Development Zones Bill

This bill will amend the Planning and Development Act 2000 to introduce new provisions to deal with land value sharing and urban development zones reflected in the Government Housing for All Plan.

Latest stage: Work is underway.

Residential Tenancies Bill

To amend the Residential Tenancies Act 2004 to further enhance tenancy protections, particularly during receivership and to enhance the supports and services available to both tenants and landlords.

Latest stage: Heads of Bill in preparation.

BILLS

Planning and Development (Amendment) (No. 2) Bill

Date published: 1 April 2022

This bill will amend the Planning and Development Act 2000 to streamline the substitute consent provisions.

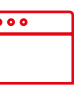
Latest stage: Currently before Seanad Éireann, Third Stage.

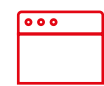
Regulation of Providers of Building Works Bill 2022

Date published: 12 January 2022

This bill provides for the establishment of a register to be known as the Construction Industry Register Ireland (Clár Tionscail Tógála na hÉireann) ("**CIRI**") which will regulate providers of building works. The legislation will provide for the establishment of a registration body which will determine the standards and competencies required of building work providers, as well as investigating and adjudicating any complaints. The registration body under the legislation will be appointed as the competent authority for the purposes of the **European Union (Recognition of Professional Qualifications) Regulations 2017**.

Latest stage: Recently completed Seanad Éireann, Third Stage.





ACTS AWAITING COMMENCEMENT

Affordable Housing Act 2021

Date published: 21 July 2021

This **act** will give effect to the government’s affordable housing policy. The act provides for the establishment of a new affordable shared equity scheme and will define ‘Cost Rental’ as a new form of tenure and place it on a statutory footing.

Commencement: Majority of the act commenced, certain provisions are still awaiting commencement.

Planning and Development (Large Scale Residential Developments) Act 2021

Date published: 14 December 2021

This **act** amends and extends the Planning and Development Acts 2000 to 2021 with respect to planning permission applications for certain large-scale residential developments, replacing the Strategic Housing Development arrangements which expired on 25 February 2022.

Commencement: The majority of the act other than s. 17(6) has been commenced.

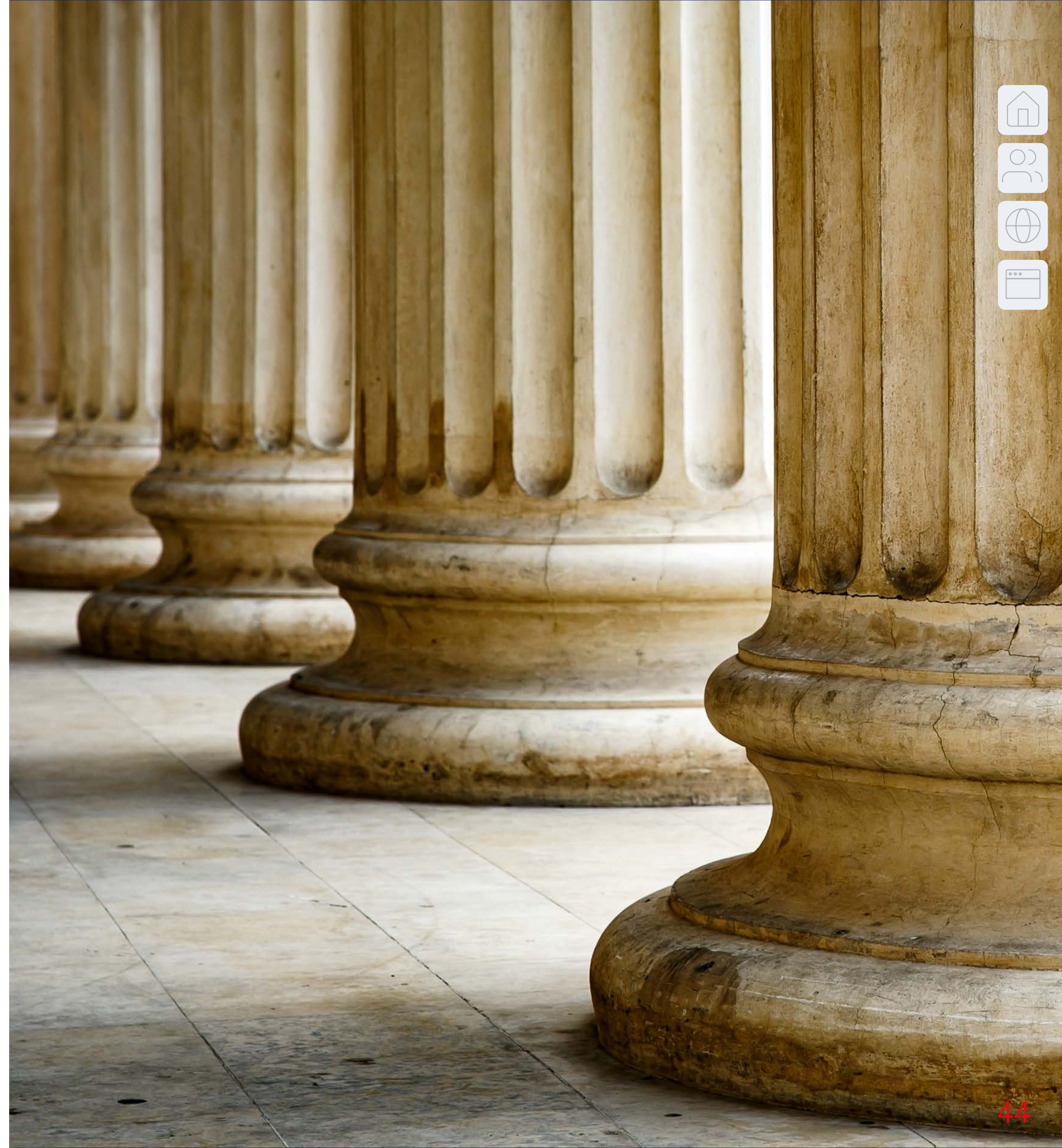
Local Government Rates and other Matters Act 2019

Date published: 11 July 2019

This **act** modernises the law governing commercial rates and enhances the rates collection powers of local authorities. It provides for interest to be applied where rates are unpaid and for the application of minimum charges for vacant commercial premises. Mechanisms are brought in allowing local authorities to introduce targeted rates alleviation schemes.

Commencement: Certain technical elements of the legislation were commenced in 2019 but the substantive elements of the act are yet to be commenced.

Litigation



IRISH PROPOSED LEGISLATION

Defamation (Amendment) Bill

This bill will update certain aspects of defamation law, based on the Government's Report of the Review of the Defamation Act 2009, published on 1 March 2022. The Report sets out a number of key proposals including:

- Abolishing the use of juries in High Court defamation cases
- Introducing a 'serious harm' test in certain circumstances
- Simplifying and clarifying the public interest defence
- Providing the Court with an express power to dismiss defamation claims that have not been progressed by the plaintiff within 2 years of issue
- A recommendation to remove the blanket exclusion of defamation claims from eligibility for civil legal aid
- Providing for an 'anti-SLAAP' mechanism
- A revision of sections 28, 30, 33, and 34, to clarify the tests for the making of court orders

Latest stage: Heads of Bill in preparation.

European Convention on Human Rights (Delays in Court Proceedings) Bill

This bill will provide for statutory compensation for breach of article 6 of the European Convention on Human Rights on the right to a fair trial within a reasonable time.

Latest stage: Heads of Bill approved on 20th July 2021, pre-legislative scrutiny waived.

Garda Síochána (Powers) Bill

This bill proposes to codify powers of search, arrest, detention, and the procedural rights of suspects, including the introduction of a single power of arrest and a new statutory right for an accused to have their lawyer present at interview. The Bill will also provide for powers under a search warrant for members of An Garda Síochána, the Competition and Consumer Protection Commission, or designated officers of the Office of the Director of Corporate Enforcement, including the power to request a person's name and address, the power to request assistance in gaining access to materials, and the power to require a person to give passwords for access to electronic devices.

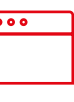
Latest stage: Heads of Bill approved on 14th June 2021, PLS has taken place.

Regulation of Lobbying (Amendment) Bill

The purpose of this bill is to amend the Regulation of Lobbying Act 2015. The bill proposes to:

- Extend the definition of lobbying to bring business representative bodies, defined in the scheme as a body which exists primarily to advocate on behalf of its members, and coalitions of business interests formed to advocate as a group on an issue of mutual interest, within the scope of the Act regardless of the number of employees
- Provide for an additional excepted communication under s. 5(5), in relation to communications made by a political party to its members who are designated public officials which are made in their capacity as members of the party
- Provide for civil and administrative sanctions for s. 22 breaches, including fines of up to €25,000 and/or a prohibition from lobbying for up to 2 years

Latest stage: General Scheme published on 16 February 2022. Listed as Priority Legislation in the Summer Legislative Programme.



Litigation

Family Court Bill

This bill will establish a dedicated family court as a separate division within the existing court structures. This will facilitate the simplification of family law proceedings, improved levels of judicial expertise and more focused legal training in family law.

Latest stage: General Scheme published in September 2020. Pre-legislative scrutiny waived. Listed as Priority Legislation in the Summer Legislative Programme.

Representative Actions for the Protection of the Collective Interests of Consumers Bill 2022

The purpose of this **bill** is to implement the Representative Actions Directive (Directive 2020/1828), which was first proposed by the Commission in 2018, which will have the effect of introducing for the first time in Ireland a style of class action litigation by consumers against corporates.

All consumer-facing industries will be affected by the legislation, with sectors such as finance, technology and health at risk of facing increased litigation by consumers acting collectively. The directive entered into force on 24 December 2020 and Member States have 24 months to transpose it into their national laws and an additional six months to start applying it in practice meaning that Member States have until 25 June 2023 to apply the changes in this area of law to comply with the Directive.

Latest stage: The General Scheme of the Bill was published on 22 March 2022.

Personal Injuries Resolution Board Bill

The purpose of this **bill** is to enhance and reform the Personal Injuries Assessment Board Act 2003-2019 to increase the number of personal injury claims settled through PIAB without recourse to litigation. It follows on a public consultation in relation to PIAB reform undertaken in March 2021. Key points to note from the proposed bill are:

- Mediation will be offered by PIAB to resolve claims
- Claims of a wholly psychological nature will remain in PIAB
- Additional time will be allowed to assess claims before proceeding to litigation where the injury is still resolving
- There will be increased transparency and public information
- Additional measures to tackle fraud are included such as seeking proof of identity and disclosure to An Garda Síochána
- The courts will have greater discretion in relation to costs awards

Latest stage: The **General Scheme** of the bill was published on 9 February 2022 and pre-legislative scrutiny is ongoing. It is listed as Priority Legislation in the Summer Legislative Programme.

Courts and Civil Law (Miscellaneous Provisions) Bill 2021

The purpose of this bill is to enact provisions relating to electronic courts services, courts administration and other civil law reform measures including licensing, land and conveyancing, international protection, civil legal aid and legal services regulation.

Latest stage: **Heads of Bill** approved on 9 January 2020 and 1 June 2021, and pre-legislative scrutiny has taken place. The bill is listed as Priority Legislation in the Summer Legislative Programme.

Review of the Administration of Civil Justice Bill

This proposed bill arises from the Review of the Administration of Civil Justice Report, published in December 2020 by a review group chaired by the then President of the High Court, Mr Justice Peter Kelly. The report made wide ranging recommendations in relation to improving access to civil justice in Ireland which are expected to be implemented in stages. It is proposed that this bill will provide for the codification of Judicial Review and for amendments relating to court procedures.

Latest stage: Work is underway.





BILLS

Judicial Appointments Commission Bill 2022

This **bill** will provide for the establishment of the Judicial Appointments Commission, chaired by the Chief Justice, to replace the Judicial Appointments Advisory Board and to reform the procedures and requirements for the appointment of Judges.

Latest stage: Published 8 April 2022. Completed Dáil Éireann, Second Stage.

ACTS AWAITING COMMENCEMENT

Counterfeiting Act 2021

This act transposes outstanding elements of Directive 2014/62/EU on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA.

Latest stage: S. 29 awaiting commencement

Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020

Date published: 22 July 2020

This act provides for, among other things, remote hearings and the use of electronic means of communication in civil proceedings and the making of statements of truth;

the holding of meetings of unincorporated bodies by remote means; conducting hearings under enactments by remote means; and the execution of certain documents in counterpart.

Commencement: Signed by the President of Ireland on 6 August 2020. Section 32, on execution of documents by counterpart is the only section not yet commenced.

EU REGULATIONS IN FORCE SINCE THE SPRING HORIZON TRACKER (MARCH 2022)

Regulation on Co-operation between the Courts of the Member States in the Taking of Evidence in Civil or Commercial Matters

Date published: 2 December 2020

The purpose of this regulation (Regulation 2020/1783) is to amend Council Regulation (EC) No 1206/2001 on cooperation between courts of Member States in the taking of evidence in civil or commercial matters. It introduces mandatory electronic transmission of requests and communications pursuant to the regulation. It also seeks to ensure more frequent, faster use of direct taking of evidence by way of video conference. Recently, the Commission published an initiative regarding the implementing rules for the establishment of a decentralised IT system for data exchange under the Regulation.

Applies from: 1 July 2022, but Article 31(3) shall apply from 23 March 2022, and Article 7 shall apply from the first day of the month following the period of 3 years after the date of entry into force of the implementing acts referred to in Article 25.

Regulation on the Service of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Service of Documents)

Date published: 2 December 2020

Regulation (EU) 2020/1784) provides for the electronic communication and exchange between sending and receiving authorities through a decentralised IT system made up of national IT systems. Recently, the Commission published an initiative regarding the implementing rules establishing a decentralised IT system for service of documents per Article 25 of the Regulation.

Applies from: 1 July 2022, but Articles 5, 8 and 10 shall apply from the first day of the month following the period of three years after the date of entry into force

Proposed Regulation on Use of Digital Technology for Modernising Judicial Co-operation Between EU Countries

Date published: 8 January 2021

This **initiative** aims to make judicial co-operation in cross-border cases throughout the EU more efficient and more resilient to crises, such as the COVID-19 pandemic. It will make it mandatory for the authorities involved in each country to use digital technology, instead of paper, to communicate.

It will improve access to justice by ensuring that individuals, businesses and legal practitioners involved in cases can communicate digitally with the competent authorities in the other countries.

Latest stage: First Reading European Parliament and Council.





STATUTORY INSTRUMENTS

Rules of the Superior Courts (Companies Act 2014, Part 10A) 2021

This **Statutory Instrument** sets out the court rules that will apply in relation to all applications and proceedings under part 10A of the Companies Act 2014 (Rescue Process for Small and Micro Companies) or SCARP.

Latest stage: The Rules came into effect on 9 May 2022.

IRISH PROPOSED LEGISLATION

Personal Insolvency (Amendment) (No. 2) Bill

The bill has not been published, but the bill is intended to update aspects of personal insolvency legislation, following a statutory review of the Personal Insolvency Acts.

Latest stage: Heads of Bill in preparation.

Directive (EU) 2019/1023 of the European Parliament and of the Council on preventative restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency).

Date published: 20 June 2019

This Directive aims to streamline insolvency and restructuring processes across the EU; reduce barriers for cross border investment; reduce the cost of insolvency and support efforts to reduce non-performing loans. The Directive was required to be implemented by 17 July 2021 but Ireland, along with many other member states, availed of a one year extension to 17 July 2022. A public consultation on the transposition of the Directive in light of Ireland’s current provisions of examinership was completed and a report issued on 21 April 2022.

Latest stage: This Directive has been passed and must be implemented by July 2022. The Directive allows for an additional year for implementation and the Irish Government have requested this allowance along with a number of Member States.

EU REGULATIONS IN FORCE SINCE HT MARCH 2022/REGULATIONS

Regulation of the European Parliament and Council Replacing Annexes A and B to Regulation EU 2015/848 on insolvency proceedings.

This has been adopted with a statement in Article 3 indicating that whilst Ireland had not been included in the Regulation under Protocol 21 it has indicated its intention to opt into the Regulation.

Applies from: This Regulation has been implemented in Ireland in May 2022 through the procedure envisaged in Article 3.

Data Protection, Privacy and Technology





IRISH PROPOSED LEGISLATION

Cybercrime Bill

This bill proposes to give effect to those provisions of the Council of Europe Convention on Cybercrime 2001 not already provided for in national law in order to enable ratification of the Convention.

Latest stage: Preparatory work is underway.

Interception of Postal Packets and Telecommunications Messages (Regulation) (Amendment) Bill

This bill proposes to amend various pieces of legislation in respect of electronic communications.

Latest stage: Heads of Bill in preparation.

Communications (Data, Retention and Disclosure) Bill

This bill will revise and replace the Communications (Retention of Data) Act 2011. The Heads of Bill were published in October 2017, following publication of Mr Justice Murray’s Report reviewing the ‘Law on the Retention of and Access to Communications Data’, which found that many features of the 2011 Act are precluded by EU law. In *Dwyer v Commissioner of An Garda Síochána* [2019] IEHC 48, the High Court made a declaration that section

6(1)(a) of the 2011 Act is inconsistent with EU law. In February 2020, the Supreme Court referred the case to the Court of Justice of the European Union (“**CJEU**”). The CJEU delivered its **judgment** in April 2022, confirming that Irish law is inconsistent with EU law, insofar it

allows the general and indiscriminate retention of traffic and location data for the purposes of combating serious crime. The new bill will likely take into account the outcome of the decision of the CJEU.

Latest stage: Heads of Bill were approved on 10 February 2015 and 3 October 2017. Pre-legislative scrutiny has taken place.

BILLS

Consumer Rights Bill

Date published: 22 April 2022

This **bill** aims to consolidate and update existing consumer protection laws that regulate consumer contracts, as well as introducing new and enhanced consumer protection measures, particularly in the area of digital goods and services. The bill aligns Irish consumer law more closely with our European counterparts by giving effect to a number of pan-European consumer rights Directives, including, inter alia, the following:

- Directive 2019/770 on certain aspects concerning contracts for the supply of digital content and digital services (The Digital Contents Directive)
- Directive 2019/771 on certain aspects concerning contracts for the sale of goods (The Revised Sale of Goods Directive); and
- The main provisions of Directive 2019/2161 on the better enforcement and modernisation of EU consumer protection rules (The Omnibus Directive). This Directive itself amends the Unfair Contract Terms Directive 93/13/EEC; the Unfair Commercial Practices Directive 2005/29/EC; the Consumer Rights Directive 2011/83/EU, and the Price Indication Directive 98/6/EC.

The bill also overhauls the current Irish regulatory framework by repealing and providing amendments to several existing pieces of Irish legislation, collating all existing provisions together in a single enactment.

Latest Stage: Before Dail Éireann, Third Stage.

Online Safety and Media Regulation Bill

Date published: 25 January 2022

This **bill** provides for the establishment of a Media Commission, the dissolution of the Broadcasting Authority



of Ireland, the introduction of a regulatory framework for online safety to tackle the spread and amplification of harmful online content, updates to the regulation of audiovisual media services and the implementation of the revised **Audiovisual Media Services Directive**.

Latest stage: Before Seanad Éireann, Third Stage.

EU DRAFT LEGISLATION

ePrivacy Regulation

Procedure reference: 2017/0003 (COD)

Date published: 10 January 2017

This proposal forms part of the EU Digital Single Market Strategy. The proposed Regulation has been amended on a number of occasions. An update to the 2002 Marketing ePrivacy Directive was seen as necessary to address new technological and market developments as well as the emergence of new techniques for tracking users’ online behaviour. The proposed ePrivacy Regulation will repeal the 2002 ePrivacy Directive and will complement the GDPR.

Latest stage: First reading in the European Parliament and Council.

Proposed Regulation Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act)

Procedure reference: 2021/0106 (COD)

Date published: 21 April 2021

In proposing a regulatory framework on artificial intelligence (“AI”), the Commission has identified the following specific objectives:

- to ensure that AI systems placed and used on the EU market are safe and respect existing law on fundamental rights and EU values;
- to ensure legal certainty to facilitate investment and innovation in AI;
- to enhance governance and effective enforcement of existing law on fundamental rights and safety requirements applicable to AI systems; and
- to facilitate the development of a single market for lawful, safe and trustworthy AI applications and prevent market fragmentation.

While acknowledging that AI is a fast-evolving and strategic technology with tremendous opportunities, the Commission believes that some uses of AI pose specific significant risks to the application of various EU rules designed to protect fundamental rights, ensure safety and attribute liability.

Latest stage: First reading in the European Parliament and Council.

Proposed Regulation on a Single Market for Digital Services (Digital Services Act)

Procedure reference: 2020/0361(COD)

Date published: 15 December 2020

This act is one of two legislative initiatives announced by the Commission as part of the European Digital Strategy, “Shaping Europe’s Digital Future”, announced in December 2020, which aims to upgrade the rules governing digital services in Europe. It is intended to update the eCommerce Directive and regulate the provision of digital services by: (i) online intermediaries; (ii) hosting services; (iii) online platforms; and (iv) very large online platforms (“**VLOPs**”) i.e., platforms that reach more than 10% of 450 million consumers in Europe filling the gaps left by sector-specific laws such as the Audiovisual Media Services Directive.

Latest stage: Political Agreement reached between European Parliament and EU Member States on 23 April 2022.

Proposed Regulation on Digital Markets Act

Procedure reference: 2020/0374(COD)

Date published: 15 December 2020

The proposed regulation on contestable and fair markets in the digital sector (Digital Markets Act) is part of the



European Digital Strategy, “Shaping Europe’s Digital Future”, announced in December 2020 which aims to upgrade the rules governing digital services in Europe. The proposed measure will create harmonised rules defining and prohibiting certain unfair practices by “gatekeeper” platforms (providers of core platform services) and introduce a new competition tool to deal with structural competition problems across markets which cannot be tackled or addressed using existing competition rules.

The measures include new powers for the Commission to conduct market investigations.

Latest stage: Political Agreement reached between European Parliament and EU Member States on 24 March 2022 .

Data Act: Proposal for a Regulation on harmonised rules on fair access to and use of data

Procedure reference: 2022/0047/COD

Date published: 23 February 2022

The purpose of this act will be to ensure fairness in the allocation of value from data among actors in the data economy, fostering access to and use of data by consumers and businesses.

Latest stage: First reading European Parliament and European Council.

Proposal for a Regulation on Data Governance

Procedure reference: 2020/0340/COD

Date published: 25 November 2020

The purpose of this proposed Regulation is to establish a framework to facilitate general and sector-specific data-sharing (including data of public bodies, private companies and citizens).

Latest stage: On 16 May 2022, the European Council approved the European Parliament’s position. It awaits publication in the Official Journal, before becoming applicable in late 2023.

NIS2: Proposal for a Directive on measures for a high common level of cybersecurity across the Union

Procedure reference: 2020/0359/COD

Date published: 16 December 2020

This proposed revision to the Network and Information Security Directive will strengthen the security requirements, address the security of supply chains, streamline reporting obligations, and introduce stricter enforcement

requirements, including harmonised sanctions across the EU to address the growing threats posed by digitalisation and the surge in cyber-attacks. Once adopted, it will replace the current NIS Directive.

Latest stage: On 13 May 2022, provisional agreement was reached by the European Council and European Parliament.

Employment



IRISH LEGISLATION PASSED SINCE HORIZON
TRACKER MARCH 2022

Redundancy Payments (Amendment) Act 2022

Date published: 31 March 2022

The purpose of the bill is to amend the Redundancy Payments Act 1967 and to provide for an additional payment from the Social Insurance Fund on the redundancy of persons laid off for a period of time due to Covid-19 restrictions whose redundancy lump sum is reduced because of the lay-off period.

Commencement: S. 4 not yet in operation. This section shall come into operation when S. 11 of the Companies (Corporate Enforcement Authority) Act 2021 comes into operation.

IRISH PROPOSED LEGISLATION

Right to Request Remote Work Bill

A bill to introduce the right to request remote work.

Latest stage: Heads of Bill approved on 25th January 2022, PLS ongoing. Listed as Priority Legislation in the Summer Legislative Programme 2022.

Transposition of Directive (EU) 2019/1152 on
Transparent and Predictable Working Conditions

The purpose of this bill is to transpose Directive (EU) 2019/1152 on transparent and predictable working conditions in the EU. The purpose of this bill is to transpose Directive 2019/1152 on transparent and predictable working conditions in the EU. It aims at improving working conditions by promoting more transparent and predictable employment while ensuring labour market adaptability. The Directive provides for a number of measures including a limit to be placed on the length of probationary periods, the right for workers with very unpredictable working schedules to have reasonable notice of when work will take place, the right to request to be transferred to another role with more predictable and secure working conditions where available, and the right to receive cost-free training that the employer has a duty to provide. This directive further bans exclusivity clauses and limits incompatibility clauses. The Employment (Miscellaneous Provisions) Act 2018 provides for many aspects of the directive, including the restriction on zero hours contracts and the requirement to provide more precise information on employee working hours. However, the directive includes measures and protection which go beyond that contained in the 2018 act, and accordingly the directive will require primary legislation to give it full effect.

Latest stage: Heads of Bill in preparation.

Work-Life Balance Bill

This bill aims to increase the participation of women in the labour market and the take up of family related leave and flexible working arrangements. It also provides opportunities for workers to be granted leave to care for relatives who need support.

Latest stage: Heads of Bill in preparation. Listed as Priority Legislation in the Summer Legislative Programme 2022.

Living Wage Bill

This bill broadly aims to amend the law relating to the determination, declaration and review of the national minimum hourly rate of pay for employees so as to arrive at and thereafter preserve an hourly rate that represents a living income.

Latest stage: This bill is currently before Dáil Éireann, Third Stage.

Protection of Employment (Collective Redundancies)
(Amendment) Bill

This bill aims to introduce reforms to enhance the protection for and rights of employees in the context of collective redundancies following the insolvency of their employer within the Protection of Employment Act 1977



Latest stage: Heads of Bill in preparation

Employment Permits (Consolidation and Amendment) Bill

This bill proposes to consolidate the Employment Permits Acts and make amendments to modernise the employment permits system and increase its responsiveness. The key proposed changes include the introduction of a seasonal employment permit and a Special Circumstances Employment Permit, the introduction of changes to streamline the requirements to make the grant process more efficient and the provision of additional conditions in respect of granting an employment permit, such as training or accommodation support.

Latest stage: Heads of Bill approved on 25th July 2019, PLS has taken place. Listed as Priority Legislation in the Summer Legislative Programme 2022.

BILLS

Sick Leave Bill

The purpose of this bill is to provide for a statutory sick pay scheme for all employees. Under the legislation employees will be entitled to up to three statutory sick leave days, with an entitlement to sick leave pay in respect of each day. The scheme will be applied on a phased basis with

the number of sick leave days increasing to ten over the course of the next four years. The bill sets out that the number of sick leave days may be varied by the Minister but not reduced to less than three days based on factors such as the economy, labour market and the views of trade unions and relevant bodies.

Latest stage: Completed Dáil Éireann, Third Stage.

Protected Disclosures (Amendment) Bill

Date published: 9 February 2022

The purpose of this bill is to transpose the EU’s **Whistleblower Protection Directive**, amending the Protected Disclosures Act 2014. The directive sets out protections for whistleblowers revealing breaches of EU law in a wide range of areas including public procurement, financial services, money laundering, product and transport safety, nuclear safety, public health, consumer and data protection. The directive ensures that all forms of retaliation against whistleblowers by their employers are prohibited, introducing safeguards to prevent the whistleblower from being suspended, demoted and intimidated or facing other forms of retaliation. It obliges legal entities with over 50 workers, in both the private and the public sectors, to implement specific internal reporting channels to ensure that the whistleblower’s identity is kept confidential.

Latest stage: This bill has completed Seanad Éireann, Second Stage.

ACTS AWAITING COMMENCEMENT

Gender Pay Gap Information Act 2021

Date published: 13 July 2021

This **act** amends the Employment Equality Act 1998-2015 by providing a legislative basis for GPG reporting in Ireland for the first time. It required the publication of regulations requiring in-scope employers to publish information relating to their gender pay gap and to publish the measures (if any) taken, or proposed to be taken, by those employers to eliminate or reduce such differences.

Commencement: Awaiting commencement orders.

Regulated Professions (Health & Social Care) (Amendment) Act 2020

Date published: 14 October 2020

This **act** amends the Medical Practitioners Act 2007, the Dental Act 1985, the Health and Social Care Professions Act 2005, the Pharmacy Act 2007, the Nurses and Midwives Act 2011 and the Health Acts 1953 and 2004. It will transpose into Irish law Directive 2013/55/EU, which provides for a system for the recognition of professional qualifications



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and experience across the EU. Other amendments include: introducing appeals against minor sanctions, amending the system of registration for medical practitioners and amendments in relation to the action that is to be taken where an individual is prohibited or restricted from practicing in another country.

Commencement: A number of provisions await commencement.

EU DRAFT LEGISLATION

Proposal for a Directive on Minimum Wages in the EU

Procedure reference: 2020/0310 (COD)

Date published: 28 October 2020

This proposal seeks to ensure that workers across the EU earn adequate wages, in line with the United Nations 2030 Agenda for Sustainable Development and its Sustainable Development Goals.

Latest stage: First reading in the European Parliament and Council.

Proposal for a Directive on the Gender Pay Gap - Transparency on Pay for Men and Women

Procedure reference: 2021/0050 (COD)

Date published: 4 March 2021

The Commission has for some time made it clear that it would assess the position on pay transparency. President von der Leyen committed in her political guidelines to introduce binding pay transparency measures. The Commission states that this initiative will:

- introduce binding pay transparency measures;
- make pay systems more transparent;
- improve public understanding of the relevant legal concepts; and
- strengthen enforcement mechanisms.

Latest stage: First reading in the European Parliament and Council.



Other Legislative and Regulatory Developments





BILLS

Assisted Decision-Making (Capacity) (Amendment) Bill 2022

The purpose of this legislation is to amend the Assisted Decision-Making (Capacity) Act 2015 and provide for the act’s commencement, as well as to give further effect to the Convention on the Rights of Persons with Disabilities (2006). The 2015, when commenced, will replace the current Wards of Court system in Ireland with a graduated supported decision-making framework.

Latest stage: Currently before Dáil Éireann, Second Stage.

IRISH PROPOSED LEGISLATION

Health (Amendment) (Licencing of Professional Home Support Providers) Bill

To enhance home support service through the licensing of both public and private providers.

Latest stage: Heads of Bill in preparation

Human Tissue (Transplantation, Post-Mortem, Anatomical Examination and Public Display) Bill

The purpose of this bill is to implement the recommendations of the Madden Report on Post-Mortem Practices and Procedures by regulating the removal, retention, storage,

use and disposal of human tissue from deceased persons. It will also provide general conditions for the removal, donation and use of organs and tissues from deceased and living persons for the purposes of transplantation. The bill will also provide an opt-out system of consent for organ donation.

Latest stage: Heads of Bill approved on 1 May 2019, pre-legislative scrutiny waived. The bill is listed as Priority Legislation in the Summer Legislative Programme.

National Research Ethics Committees Bill

This bill provides for the creation of a National Research Ethics Committee model in Ireland that will encompass all human health research including clinical trials of medicinal products.

Latest stage: Heads of Bill approved on 25 July 2019. Committee agreed to waive pre-legislative scrutiny.

REGULATIONS IN FORCE SINCE SPRING HORIZON TRACKER

Regulations on Medical Devices and In-Vitro Diagnostic Devices

Regulation 2017/745 on Medical Devices (“MDR”) and Regulation 2017/746 on In-Vitro Diagnostic Devices

(“IVDR”) entered into force in May 2017 following publication in the Official Journal of the European Union.

The regulations have a staggered transitional period with some aspects becoming legally binding after six months of entry into force.

Latest stage: The MDR was due to become fully applicable on 26 May 2020 after a three-year transition period. However, due to the global outbreak of COVID-19, full application of the MDR was postponed and is fully applicable from 26 May 2021. The IVDR will be fully applicable on 26 May 2022.

Glossary

AIF	Alternative investment fund
AIFM	Alternative investment Fund manager
AIFMD	Alternative Investment Fund Managers Directive - Directive 2011/61/EU
AML	Anti-money laundering
CLRG	Company Law Review Group
CSDR	Central Securities Depositary Regulation – Regulation (EU) 909/2014
Dáil Éireann	The lower house and principal chamber of the Oireachtas, the Irish legislature
DETE	Department of Enterprise, Trade and Employment
EBA	European Banking Authority
ECB	European Central Bank
EEA	European Economic Area
EIOPA	European Insurance and Occupational Pensions Authority
EMIR	European Market Infrastructure Regulation – EU Regulation No 648/2012
ESMA	European Securities and Markets Authority
EU	European Union
EuSEF	European Social Entrepreneurship Fund
GDPR	General Data Protection Regulation

Member State	A member state of the European Union
MiFID II	Second Markets in Financial Instruments Directive – Directive 2014/65/EU
MiFIR	Markets in Financial Instruments Regulation – Regulation (EU) 600/2014
MLD5	Fifth Money Laundering Directive – Directive 2018/843/EU
MLD6	Sixth Money Laundering Directive - Directive 2018/1673/EU
NCA	National Competent Authority
NFRD	Non Financial Reporting Directive
OECD	Organisation for Economic Co-operation and Development
Oireachtas	The Irish legislature, combining the lower house, Dail and the upper house, Seanad.
RTS	Regulatory Technical Standards
Seanad Éireann	The upper house of the Oireachtas, the Irish legislature
SFDR	Sustainable Finance Disclosure Regulation
SFTR	Securities Financing Transactions Regulation
Summer Legislative Programme	Irish Government's Legislative Programme for Summer 2022
UK	United Kingdom
UCITS Directive	Directive on Undertakings for Collective Investment in Transferable Securities – Directive 2009/65/EC



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