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April 2025

ESSENTIAL INTELLIGENCE:

Fraud, Asset Tracing & Recovery

Contributing Editor:

Keith Oliver
Peters & Peters Solicitors LLP

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OF FINANCIAL CRIME LITIGATORS

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Ireland



Karyn A. Harty
Dentons



Ciara FitzGerald
Dentons



Aaron McCarthy
Dentons



Tiernan Nix
Dentons

I Executive summary

Ireland has a unique legal system as the last remaining English-speaking common law jurisdiction within the EU, with the benefit of the Brussels Recast enforcement regime. Ireland also has a vibrant legal services market due to the significant multi-national presence – being a small open economy with an attractive corporate tax rate, while also being within the European Union (EU) – giving the Irish courts a depth of experience of complex cross-border litigation. The Irish courts are well-regarded internationally, and there is a strong regime in Ireland for fraud and asset recovery, with the Irish courts willing to make new law if it does justice in a case.

II Important legal framework and statutory underpinnings to fraud, asset tracing and recovery schemes

Ireland is a common law jurisdiction with a written constitution which also benefits from EU law, including the Brussels Recast. This framework is well-suited to complex fraud cases. Common law jurisdictions

offer flexibility to do justice where required, including through worldwide freezing injunctions and wide-ranging disclosure orders to identify assets and wrongdoers. Given that financial fraud is rarely limited to one jurisdiction and fraudsters do not tend to voluntarily repay stolen money, cross-border enforcement mechanisms are critical. The Brussels Recast allows automatic recognition of an Irish judgment in other Member States, obviating the need to apply in each EU jurisdiction for recognition.

Criminal framework

There is generally no mechanism for financial compensation for victims of financial crime in the Irish criminal law process. While the assets of criminals can be seized by the Criminal Assets Bureau, if the assets constitute unexplained wealth, the proceeds of this are generally reinvested in the community. Legislating for the alarming rise in economic crime is a priority of the Programme for Government. There is growing legislation in this area, with the Government commissioning a report (**Hamilton Report**), published in 2020, which made recommendations for legislative changes to combat economic crime. Many new legislative developments centre on strengthening the power of regulatory bodies to investigate and enforce the law.

The Hamilton Report recommended new measures to improve Ireland's white-collar crime regime and tackle corruption, and it is likely to continue to be a priority of the Government to enact these. Many steps are already in place. For example, under the Competition (Amendment) Act 2022, new surveillance powers have been given to the Competition and Consumer Protection Commission (CCPC) and ComReg; Ireland's consumer protection and competition regulator, and communications regulator, respectively.

New powers which enhance and bolster the investigation and enforcement abilities of Ireland's Corporate Enforcement Authority (CEA) have been introduced under the Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024 (2024 Act), which took effect from 3 December 2024. The 2024 Act introduces a new criminal offence relating to the obstruction or interference with an officer of the CEA in the exercise of their powers under the Companies Act 2014.

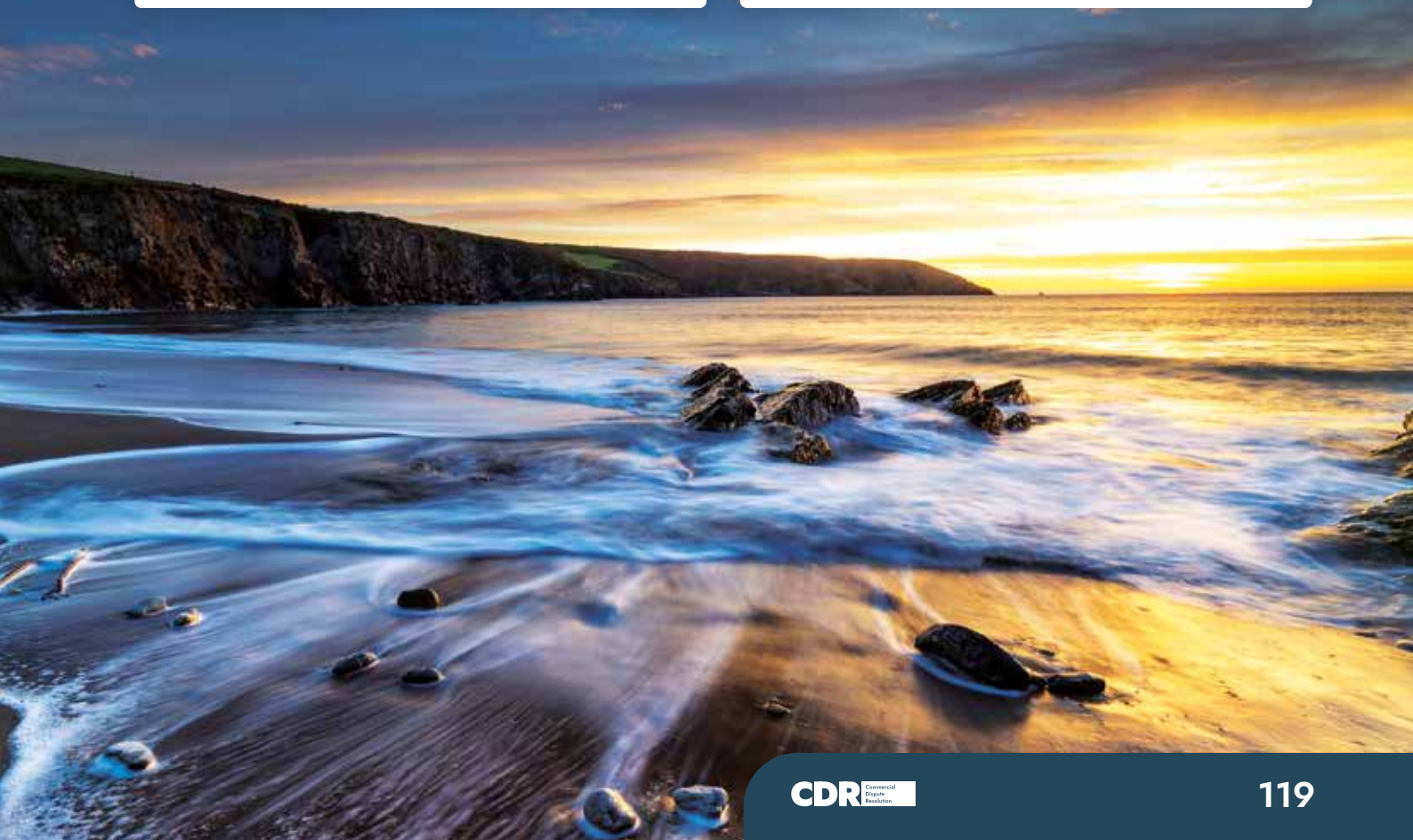
The publication of the Garda Síochána (Powers) Bill was identified as a priority in the Autumn 2024 legislative session. This legislation will give new powers to Ireland's police force, the CCPC and the CEA, including the power to require persons to disclose the password to devices when a search warrant is being executed. A new Government has since come into power (largely comprising the previous Government). Nevertheless, the status of the Bill with the new Government remains to be seen.

The existing Criminal Justice (Theft and Fraud Offences) Act 2001 covers most economic crime offences, including theft, deception, handling and possession of stolen property, forgery and false accounting. This includes offences relating to misappropriation by public officials and fraud impacting the financial interests of the EU.

The Criminal Justice (Corruption Offences) Act 2018 introduced an array of new criminal offences relating to corruption, which extend to corrupt practices within corporate structures, allowing a corporate body to be held liable for the corrupt actions of, *inter alia*, any of its directors, managers, secretary, employees, agents or subsidiaries. Its provisions extend beyond Ireland's borders, asserting extraterritorial jurisdiction over certain corrupt acts committed abroad by Irish entities or nationals.

The rise of cybercrime has prompted specific legislative responses, such as the Criminal Justice (Offences Relating to Information Systems) Act 2017, which targets hacking and other cyber offences. This aligns Irish law with the EU Cybercrime Directive (Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems), and underscores the importance of a harmonised approach to cybercrime across Member States.

Criminal offences are prosecuted by the Director of Public Prosecutions (DPP), although summary criminal offences may be prosecuted by other statutory bodies, including the CEA.



Company law framework

Ireland has a strong corporate law regime, with increasing focus on the responsibilities of corporate officers to ensure compliance. The Companies Act 2014 includes offences such as: the falsification of company books and documents; making false statements to auditors; and the destruction of company books or documents to defeat the law. Summary company offences are ordinarily prosecuted by the CEA, while more serious offences are referred to the DPP for prosecution.

The Companies Act 2014 further provides that company directors can be held personally liable for company debts resulting from reckless or fraudulent trading. It also sets out the consequences for making untrue statements in prospectuses, among other offences.

As noted above, the 2024 Act has broadened the powers of the CEA in many respects. Significantly, the 2024 Act has introduced provisions to facilitate greater information-gathering powers of the CEA in relation to its investigations. These powers include the power to seek additional information from auditors in relation to an indictable offence report and direct access to court orders restricting or disqualifying a director of an insolvent company. The cohort of statutory bodies permitted to disclose information to the CEA has been expanded under the 2024 Act. These additional bodies include the Registrar of Beneficial Ownership, the Charities Regulator, the Minister for Social Protection, the Pensions Authority, the Financial Services and Pensions Ombudsman, the Data Protection Commission and the Protected Disclosures Commission. Additionally, the CEA is now authorised to share information with these bodies which would otherwise be confidential.

Enforcement agencies

Ireland has dedicated enforcement agencies which investigate and prosecute fraud and similar crimes, with more resources being provided for these agencies in recent years following the Hamilton Report.

Ireland's national police force, An Garda Síochána, has a dedicated unit, the Garda National Economic Crime Bureau (**GNECB**), tasked with the investigation of serious and complex economic crimes including fraud, and provides support and assistance to local and regional investigations relating to fraud offences. With the increase in incidents of cross-border fraud and money laundering, the GNECB often works with enforcement agencies from other jurisdictions.

The Criminal Assets Bureau (**CAB**) is an independent body established under the Criminal Assets Bureau Act 1996, and has extensive powers over assets which are the proceeds of criminal conduct. It is an investigative authority rather than a prosecutor, and has many investigative powers, including to obtain

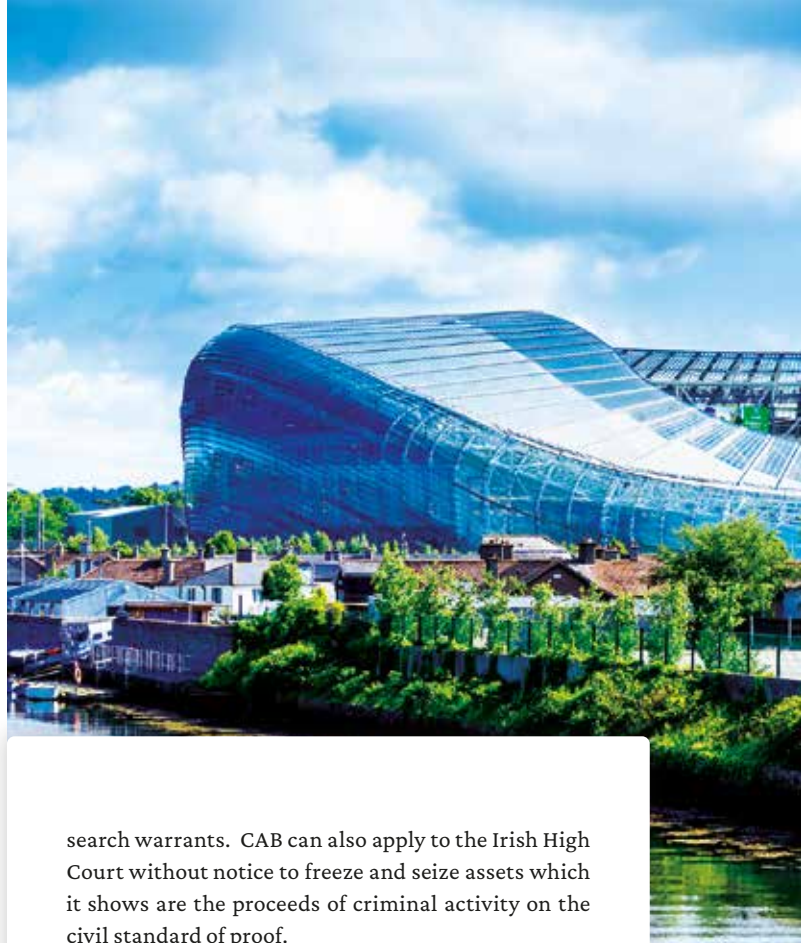
search warrants. CAB can also apply to the Irish High Court without notice to freeze and seize assets which it shows are the proceeds of criminal activity on the civil standard of proof.

The CEA investigates and enforces corporate law in Ireland. The CEA was established on 7 July 2022 (replacing the Office of the Director of Corporate Enforcement), and has already brought a number of summary prosecutions and referred a number of indictable offences to the DPP. These have included cross-jurisdictional cases.

Anti-money laundering

To date, Ireland's money laundering regime has derived from EU directives. The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended) provides offences relating to money laundering in and outside of Ireland and sets out the preventive measures businesses must take to combat the risk of money laundering. The Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021 has amended the 2010 Act, while also transposing the Fifth Anti-Money Laundering Directive (MLD5) (EU) 2018/843 into national law. It has enhanced anti-money laundering obligations for individuals in high-risk sectors, including virtual asset service providers (**VASPs**), and mandates strict customer due diligence (**CDD**) protocols to those sectors. The 2021 Act further increased CCD requirements for high-risk third countries.

In June 2024, the EU published a new anti-money laundering/countering the financing of terrorism (**AML/CFT**) legislation package comprising a regulation introducing an AML Authority (**AMLA**) and establishing an EU Single AML/CFT Rulebook. The AMLA supervises "obliged entities" and supports the Financial Intelligence Units (**FUI**) of Member States. This will empower more effective identification and





investigation of money laundering and terrorist financing. The FIU in Ireland is embedded in the Garda National Economic Crime Bureau. It is anticipated that the AMLA will begin its activities in mid-2025

The Single AML/CFT Rulebook, which will apply from July 2027, represents a shift from the directive-led framework to a streamlined AML/CFT Regulation across the EU. The Rulebook will introduce changes including the extension of the list of obliged entities to include all crypto-asset service providers and the overall strengthening of the EU AML/CFT regime.

Reporting obligations

It is an offence in Ireland to fail without reasonable excuse to notify the appropriate authority of information which you know or believe to be of material assistance in preventing the commission, or in securing the successful prosecution, of a relevant offence, including fraud, bribery or certain corporate offences (Section 19 of the Criminal Justice Act 2011). The offence applies to companies and individuals. A company which fails to report a suspected fraud risks criminal liability.

The threshold for reporting is low, and need not meet an evidential standard. This low-threshold requirement for reporting offences is complemented by the Protected Disclosures (Amendment) Act 2022, which offers enhanced protection for whistleblowers.

Civil law remedies

The courts have jurisdiction to grant a broad range of measures to safeguard against the unlawful dissipation of assets. Measures include scope to obtain discovery, orders compelling disclosure and interim freezing orders, with failure to comply resulting in contempt of court.

The courts can compel disclosure from third parties either in the context of existing proceedings

(non-party discovery) or with a view to commencing proceedings (*Norwich Pharmacal* orders).

The discovery procedures available in Ireland are comparatively very strong and effective at uncovering relevant documents and evidence. Ireland's test for determining whether a document is "relevant" under a discovery order is the old common law *Peruvian Guano* test, which means that not only must the producing party disclose documents that may advance its or its opponent's case, but it also must disclose documents which may lead to a "train of enquiry" having either of those consequences. These discovery procedures are a very useful tool in unravelling a fraud.

The courts have jurisdiction to appoint a receiver over assets connected with a fraud to preserve the assets on an interim basis and prevent their dissipation. The courts have recently clarified that where a receiver is appointed, they have an entitlement to obtain documents, such as bank statements, from third parties. These measures are discussed in more detail below.

Case triage: main stages of fraud, asset tracing and recovery cases

Fraud, asset tracing, and recovery cases typically follow a multi-stage process that begins with the detection and reporting of fraud. This is followed by a preliminary assessment and the decision on whether to pursue a civil, criminal, or combined approach.

Initial investigation

The discovery of fraudulent activity within an organisation triggers a multifaceted response. An internal investigation is often the first step, which will shape the next stages. The initial investigations, while primarily internal, could lead to regulatory sanctions and/or criminal prosecution, often culminating in civil litigation to recoup losses and safeguard stakeholders' interests. The preservation of evidence and documents is critical at this early stage. Issues such as data protection will need to be carefully navigated, as does legal privilege.

The Protected Disclosures (Amendment) Act 2022 introduces an additional layer of complexity, particularly when the investigation involves whistleblowers. Organisations must tread carefully, ensuring their compliance with the 2022 Act and avoiding conduct that could be deemed to be penalisation.

An organisation should also be cognisant as to whether any reporting obligations arise (see above). A report pursuant to Section 19 of the Criminal Justice Act 2011 may result in a comprehensive investigation by the GNECB, and may lead to criminal proceedings or action by a regulator such as the Central Bank of Ireland.



Emergency relief

Depending on the circumstances of the suspected fraud, a party can immediately seek to secure any assets at risk through court orders, such as freezing orders or injunctions. This is a critical step to prevent the dissipation of assets before they can be recovered. The courts may grant such relief on an *ex parte* basis, and impose reporting restrictions where necessary.

Remedies available for asset recovery

Ireland offers a range of legal remedies for organisations seeking to trace and recover misappropriated assets. Injunctive relief is a particularly powerful tool, with Irish courts holding broad jurisdiction to grant such reliefs where necessary. Important remedies available include:

i. Mareva injunctions

“Mareva” injunctions effectively freeze assets where they are and prevent any party having notice of the order from dissipating the assets, and are often accompanied by ancillary orders, such as orders requiring the disclosure of assets. They are often sought *ex parte*, and reporting restrictions can be imposed where required. European Account Preservation Orders may also be available as an alternative to Mareva injunctions.

ii. Anton Piller orders

Anton Piller orders enable entry into premises to search for evidence if there is an urgent fear that the defendant is trying to destroy evidence of wrongdoing. Failure to comply can result in a defendant being found in contempt of court. It is a remedy sparingly used, and there is a high standard of proof (i.e. a very strong *prima facie* case and real risk of destruction of the evidence).

iii. Third-party disclosure

For victims of fraud to be able to police freezing orders or recover losses in a fraud case, the assistance of third parties is often required to trace and find assets held by or on behalf of the perpetrators of the fraud.

In particular, the availability of financial disclosure from third-party financial institutions can be crucial in chasing assets (often) across multiple jurisdictions. Bank statements can provide valuable information as to where funds have been transferred, which can include evidence of other accounts, or the names of other individuals involved in the fraud. They can also provide a chain for any tracing claim. There can be difficulties obtaining disclosure from banks, even where court orders have been made, as banks can have concerns regarding the privacy of customers and General Data Protection Regulation (GDPR). Furthermore, if a plaintiff is dealing with banks outside the EU, they may not recognise an Irish

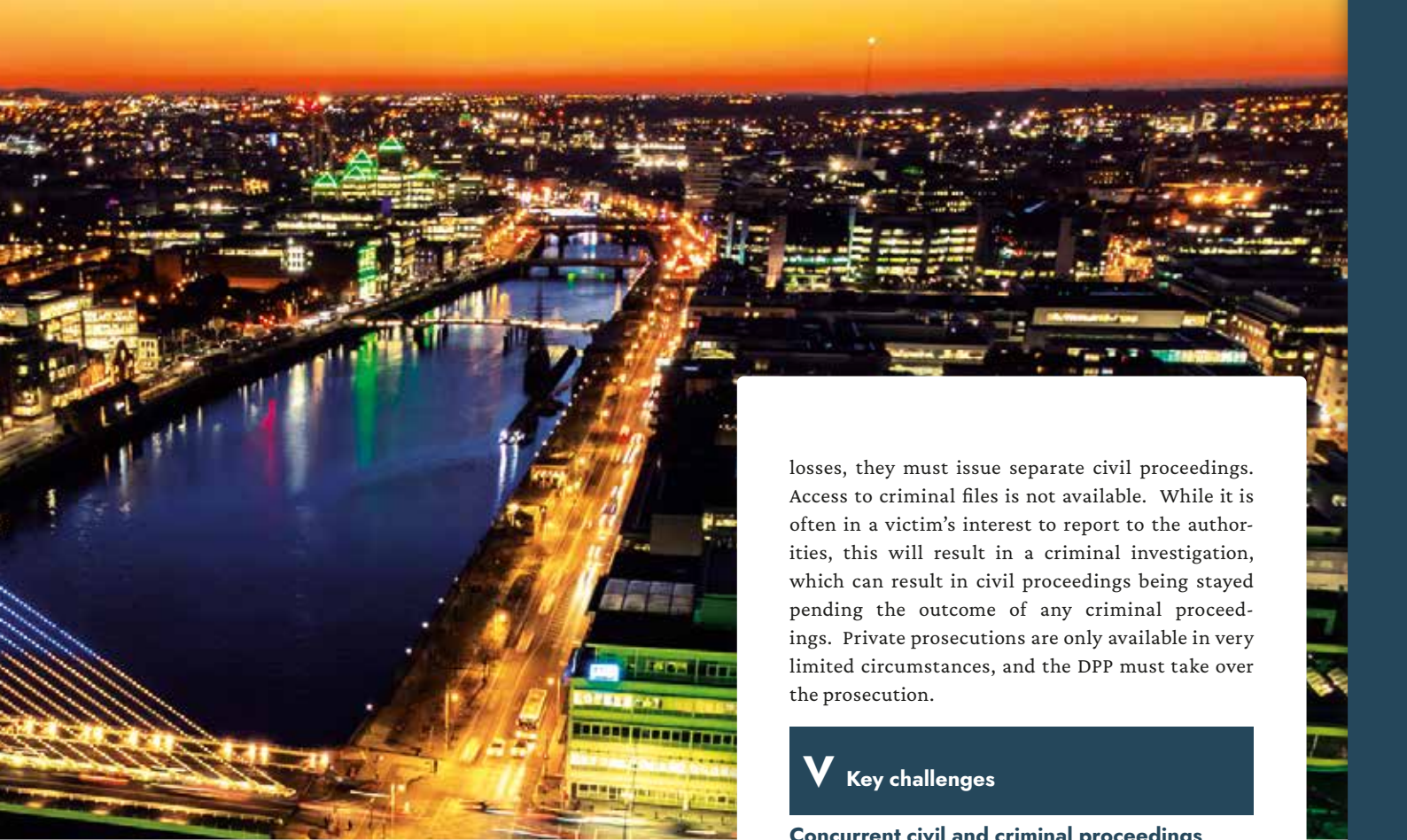


court order without an order of recognition of the court in the jurisdiction in which the bank or financial institution is based.

iv. Norwich Pharmacal orders

Norwich Pharmacal orders compel third parties to disclose information that may identify wrongdoers. Traditionally, the courts would only grant relief confined to the identity of a wrongdoer (such as names and IP addresses), rather than information concerning the commission of the wrong (*Megaleasing UK Ltd and ors v Barrett and ors* [1993] ILRM 497). However, recent case law has seen a significant departure from this approach and has greatly expanded the *Norwich Pharmacal* jurisdiction. The court’s jurisdiction may now, based on the facts of the particular case relating to fraud, be extended to compel disclosure of the minimum information necessary for the plaintiff to issue proceedings on foot of the fraud, rather than the material required to confirm that a cause of action or complaint is well-founded (*Electricity Supply Board & anor v Richmond Homes & anor* [2023] IEHC 571 and *Blythe v The Commissioner of an Garda Síochána* [2023] IECA 225). This development means it is now easier for victims of fraud to obtain information from third parties, which is necessary to plead their claim.

In addition, following a recent update to the court rules in July 2024, the High Court can now grant



permission for application papers for a *Norwich Pharmacal* order to be served outside out the jurisdiction.

v. The appointment of a receiver

The Irish courts have the jurisdiction to appoint a receiver by way of equitable execution over assets connected with a fraud, either on an interim basis to preserve assets and prevent their dissipation (often accompanied with other relief such as a Mareva injunction) or post-judgment to recover losses suffered by the plaintiff arising from the fraud. The courts may grant receivers with a broad range of powers to take control of the assets of the defendant and, where judgment has been granted, to sell those assets and apply the proceeds to discharge the judgment in favour of the plaintiff. In performing those functions, a receiver may be entitled to apply to the court for relief to assist them in carrying out their functions. A recent case has clarified that receivers are entitled to disclosure regarding assets, including the ability to seek disclosure from third parties' banks.

IV Parallel proceedings: a combined civil and criminal approach

Civil and criminal proceedings are separate in Ireland. If a victim of fraud wants to recover their

losses, they must issue separate civil proceedings. Access to criminal files is not available. While it is often in a victim's interest to report to the authorities, this will result in a criminal investigation, which can result in civil proceedings being stayed pending the outcome of any criminal proceedings. Private prosecutions are only available in very limited circumstances, and the DPP must take over the prosecution.

V Key challenges

Concurrent civil and criminal proceedings

A parallel criminal investigation can be challenging for a fraud plaintiff. The criminal authorities may initiate investigations while asset recovery steps are underway. As referred to above, Section 19 of the Criminal Justice Act 2011 requires the reporting of certain offences, including bribery, to the authorities. There is a no automatic stay of civil trials in Ireland pending the conclusion of related criminal trials, but if a civil trial may prejudice the accused, or to witnesses, then the civil trial will be stayed: *Quinn v Irish Bank Resolution Corporation Limited (in Special Liquidation) & Ors* [2015] IEHC 634, where civil proceedings were stayed a number of times pending the criminal trial of the former head of Anglo Irish Bank.

It is possible, notwithstanding a concurrent criminal investigation, to commence civil proceedings and seek emergency relief.

The commencement of a criminal investigation in Ireland may also be of benefit. As referred to above, the GNECB is a well-resourced agency that has good connections to other international FIUs worldwide as part of the Egmont Group. The GNECB can also invoke Mutual Legal Assistance to obtain assistance in investigations from foreign authorities.

Data protection

The Irish Data Protection Commission, which enforces the GDPR, has prosecuted a number of private investigators instructed by financial services and insurance firms in recent years for unlawful methods used to access and process personal data. For example, in 2014, a firm of private investigators and its two

directors were convicted of unlawfully accessing personal data from a Government department. Third parties may be reluctant to provide evidence voluntarily in a fraud or asset recovery case out of a concern for breaching GDPR rights.

Third-party litigation funding

Third-party litigation funding is generally prohibited in Ireland, amidst some exceptions with the prohibition on maintenance and champerty still part of Irish law. Ireland's law in this area may change, as explored further below.

VI Cross-jurisdictional mechanisms: issues and solutions in recent times

In recent years, there has been a marked increase in international fraud. Cross-jurisdictional mechanisms for identifying and enforcing against assets are more important than ever.

The Irish courts have been flexible in facilitating the enforcement of foreign judgments and the rendering of assistance in the taking of evidence in Ireland. The attitude of the courts was aptly summarised by Noonan J in *Neal R Cutler, MD v Azur Pharma International III Ltd and Others* [2015] IEHC 355:

“It seems to me that the starting point in an application such as this is that the court will use its best endeavours to give effect to a request for assistance from the courts of another jurisdiction.”

Ireland is party to the EU instruments facilitating the recognition of judgments and cross-jurisdictional

assistance, such as the Brussels Recast Convention and the Taking of Evidence (Recast) Regulation.

The flexibility of the Irish courts in this area is illustrated by the case *Mount Capital Fund Ltd (in Liquidation) and Others v Companies Act* [2012] IEHC 97. There, an application was brought *ex parte* on behalf of liquidators appointed in the British Virgin Islands (BVI) seeking discovery of documents and assistance regarding the recovery of assets. The Irish High Court held that it had inherent jurisdiction to give recognition to insolvency proceedings from jurisdictions outside the EU. The Court held that a legitimate purpose had been demonstrated and that there was equivalence between the law of the BVI and Ireland in relation to corporate insolvency law. The Court recognised the orders made by the BVI Court and gave the liquidators liberty to apply to the Irish High Court to summon persons in Ireland for examination and other relief.

Letters rogatory

Ireland is not a party to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters; so, where proceedings are outside the EU and are civil, parties are limited to the letters rogatory procedure for obtaining evidence. However, letters rogatory are available to parties seeking oral evidence

and ancillary documents from witnesses in Ireland for use in foreign legal proceedings. Letters rogatory may not be used to purely discover relevant documents – *Sabretech v Shannon Aerospace* [1999] 2 I.R. 468.

Taking of Evidence (Recast) Regulation (EU) 2020/1783

If evidence sought is in respect of proceedings in another Member State, the Taking of Evidence (Recast) Regulation is an effective and efficient method of obtaining evidence across Member States of the EU. Under the Taking of Evidence (Recast) Regulation, a Member State court can request another Member State court for the examination of a witness and production of documents if permitted. Requests are transmitted through a decentralised IT system and must be acknowledged within seven days by the court. The receiving court must act without delay and at the latest within 90 days. The requesting court can request the provision of teleconferencing.

The civil or commercial proceedings in question must have commenced or be contemplated, and the request can only be for evidence that a party intends to use in those proceedings. Evidence obtained under the Taking of Evidence Recast Regulation cannot be used for any purpose other than the litigation for which it was obtained.

VII Using technology to aid asset recovery

The Irish courts have been very receptive to using artificial intelligence to streamline litigation processes, and this bodes well for the future use of AI to obtain evidence for use in civil proceedings. Ireland was only the second jurisdiction globally, after the US, where a court sanctioned a discovery review utilising predictive coding – *Irish Bank Resolution Corporation Ltd and Others v Quinn and Others* [2015] IEHC 175.

Technology is playing an ever-increasing role in international asset recovery, with computer assisted learning and other analytics in common use in Ireland for investigations and fraud litigation. 2023 was very much the year of AI and more specifically the year of the large language model (LLM), with models such as OpenAI's ChatGPT 4 leading to eDiscovery companies rolling out their own integrated LLM offerings. In Ireland, domestic companies such as TrialView have employed AI in trial preparation technology, and many forensic investigation firms have also begun integrating AI into their platforms.

VIII Highlighting the influence of digital currencies: is this a game changer?

The rise of cryptocurrency has had significant

implications for asset recovery. On the one hand, the facilitation of peer-to-peer decentralised transfers means that parties may remain relatively anonymous in their transactions, hampering asset recovery efforts. On the other, the immutable and public nature of the blockchain has made it simpler to trace transactions along the blockchain.

The Irish courts treat cryptocurrency as an asset and have granted disclosure orders in relation to crypto wallets – *Trafalgar Developments Ltd v Mazepin* [2019] IEHC 7. In a case involving the global firm Coinbase Europe Limited (No. 2021/348P), an American businessperson used a cryptographic tracing firm to track down bitcoin stolen from his account. He discovered that the bitcoin ended up in a Coinbase account hosted in Ireland. He applied to the Irish court successfully for a *Norwich Pharmacal* order, which required Coinbase to disclose within five days all information it held that would identify or assist in identifying the person(s) who owned or had access to the relevant account, including the names, email addresses, telephone numbers and IP addresses associated with the account.

The Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021 transposed the EU's Fifth Anti-Money Laundering Directive (MLD5) (EU) 2018/843 into Irish law. This Act, among other things, extends AML obligations to VASPs, including crypto exchanges and wallet custodians. The Recast Funds Transfer Regulation (Regulation (EU) 2023/1113) also came into force in June 2023 and provides for the traceability of transactions in crypto assets which are conducted through an intermediary or service provider.

While these developments will undoubtedly prove helpful in the investigation and recovery of misappropriated assets, challenges in enforcing against cryptocurrency remain, including that if the private key to a crypto wallet is "cold stored" on an external storage device with no connection to the internet, or indeed sometimes a simple piece of paper with the public and private keys written on it, it may prove very difficult to recover the assets.

IX Recent developments and other impacting factors

Money mules

An increase in laundering through money mule accounts has been seen in Ireland in recent years with over €44 million laundered through these accounts between 2021 and 2024. The Garda National Economic Crime Bureau has issued advice outlining the warning signs of a money mule solicitation and the associated consequences including criminal conviction.



Payment Services Package

The EU's new Payment Services Directive and Payment Services Regulation (together the Payment Services Package (PSP)) are due to be published this year.

One of the changes that will be introduced by the PSP is the refund rights of customers. Under existing law, payment service providers must refund customers for unauthorised payments transactions. The PSP will extend the refund right to cases of "spoofing" fraud. This is where a customer is tricked into authorising a transaction due to someone impersonating the payment service provider.

In addition, under the PSP, customers will be entitled to a refund if the system designed to verify the alignment between the International Bank Account Number and the account holder's name malfunctions.

Third-party litigation funding

In Ireland, the funding of litigation by parties with no legitimate interest in the underlying proceedings is prohibited under the old rules of champerty and maintenance. That may be about to change, and it is possible litigation funding will soon be permitted for those disputes. The Irish Law Reform Commission is working on a report on litigation funding, and the recently enacted Representative Actions Act 2023, which allows designated bodies to bring class actions on behalf of claimants, may give rise to reform as regards the funding of claims.

There is already scope for some litigation funding within the current rules in Ireland by victims of fraud. In *Atlas GP Ltd v Kelly* [2022] IEHC 443, it was held that local residents pooling resources to fund a legal challenge to a development in their area had a legitimate interest in the underlying claim. Similarly, it is possible that fraud victims pooling funds would also be held to fall within the exception.

"After the event" insurance policies have been held to be permitted in Ireland – *Green Clean Waste Management Ltd* [2014] IEHC 314.

Sanctions

The sanctions imposed on Russia in the wake of its invasion of Ukraine in February 2022 and the freezing of the assets of sanctioned entities has been a significant development in the world of asset recovery. Recovery against frozen assets may now require a derogation from the Central Bank of Ireland (Council Regulation (EU) 269/2014). If a company goes into liquidation, then the court may hold that the presumption of control of the sanctioned entity for the purposes of Council Regulation (EU) 269/2014 is rebutted – *GTLK Europe DAC v Companies Act 2014* [2023] IEHC 486.

Another effect of the sanctions was to spur some sanctioned (or soon-to-be sanctioned) entities to engage in transactions to place assets beyond the reach of creditors. Asset recovery practitioners have had to litigate to

ask the court to look behind these transfers and where necessary pierce corporate veils. For example, in the *ex tempore* judgment *GTLK v Companies Act 2014*, handed down on 19 December 2023, it was held that certain Pledge Agreements entered into in favour of GTLK's parent company were, among other things, "fraudulent conveyances" within the meaning of the Irish Land and Conveyancing Law Reform Act 2009.

Personal Liability for Directors and Senior Executives

As discussed above, the CEA investigates and enforces corporate law in Ireland and has been termed Ireland's "white-collar FBI". A key rubric guiding the CEA is individual accountability. In recent years, there has been a trend in Ireland towards holding directors and senior executives to account when frauds and misappropriations occur. The Central Bank (Individual Accountability Framework) Act 2023 established enhanced fitness and probity requirements for senior executives of entities regulated by the Central Bank of Ireland such as credit institutions. In addition, it provides for a Conduct of Standards which sets out the behaviour the Central Bank of Ireland expects of those firms and the individuals working within them. The 2023 Act is now partly in force and, as of 1 July 2024, applies to executive directors. It will continue to roll out through 2025 to include non-executive directors.

Recent decisions have also shown an increasing willingness of the courts to hold directors to account is illustrated by *Powers v Greymountain Management Ltd* [2022] IEHC 599, where a college student was persuaded to become a director of a company. Unknown to him, the company was a vehicle for a fraudulent scheme. Although the college student was not aware of the fraud, the court held him, along with another, to be personally liable to the claimant fraud victim due to his dereliction of duties as a director. **CDR**



Established in 2020, **Dentons** Ireland has firmly established itself as a legal powerhouse in the Irish market. Managed by Eavan Saunders, our partners are top-ranked individuals augmented by talented young partners and counsel who are top class and have grasped the opportunity to internationalise their practices. The firm has been shortlisted alongside four Band 1 local firms for Law Firm of the Year, Ireland by *The Lawyer, Europe* in three consecutive years in 2022, 2023 and 2024. We advise on all types of disputes arising out of financial services and corporate, real estate, retail, media and construction transactions, and work seamlessly with our corporate, construction, banking, financial services, and real estate teams to serve our clients' needs.

The Disputes team has grown from one partner and two associates in 2022 to a four partner team, with one Of Counsel, seven associates and three paralegals, working on a selection of Ireland's highest profile disputes and investigations. Our team is best known for complex, cross-border commercial disputes and regulatory representation across a diverse range of industries (evidenced in our case studies). Our Dublin office is growing a strong reputation in the Irish market and works closely with other Dentons offices to provide clients with global reach as well as on the ground expertise.

Our team competes for and wins high value work against the best of Ireland's domestic and international firms and is on the other side of Band 1 firms on all its contentious matters. The team does not rely on Dentons Global to drive growth but has created its own opportunities as well as opportunities for the wider Dentons global business and has successfully leveraged the talent in the global firm for the benefit of Irish clients doing business outside of Ireland. The range of complex disputes outlined below demonstrates the strategic heft of the team despite its small size relevant to incumbents in the market.

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Karyn A. Harty is Global Co-Chair of Disputes and is a partner and Head of the Litigation practice group in Dentons' Dublin office. Karyn is also a member of our global Inclusion & Diversity Leadership Council and is a CEDR-accredited mediator.

Karyn's focus is on complex commercial litigation and investigations, often multi-jurisdictional. She has particular expertise in asset recovery, white-collar defence and media defence, and is recognised as an expert on eDiscovery and legal innovation. She is an experienced civil jury practitioner.

Former Co-Chair of Dublin International Disputes Week, Karyn is also a Fellow of the International Academy of Financial Crime Litigators, and has served as Co-Chair and steering committee member of the Forum on the International Enforcement of Judgments and Awards.

karyn.harty@dentons.com



Ciara FitzGerald is a partner in Dentons' Dublin office. She is a member of the Litigation practice group. Ciara's focus is on complex commercial disputes, often with an international element, regulatory and other investigations, shareholder disputes and large-scale discoveries. She is also experienced in cases involving fraud and asset recovery, and is a member of the Irish Chapter of Women's White Collar Defence Association.

ciara.fitzgerald@dentons.com



Aaron McCarthy is an associate in Dentons' Dublin office. He is a member of the Dispute Resolution and Insolvency practice. Aaron specialises in complex commercial litigation and investigations, with strong experience in asset recovery, white-collar crime, media defence and privacy law.

aaron.mccarthy@dentons.com



Tiernan Nix is an associate in Dentons' Dublin office. He is a member of the Litigation practice group. Tiernan specialises in media defence and complex commercial litigation, and has gained exceptional experience in the areas of asset tracing, white-collar crime and regulatory investigations.

tiernan.nix@dentons.com