MEMORANDUM OF UNDERSTANDING BETWEEN THE LAW SOCIETY OF IRELAND AND THE DEPARTMENT OF JUSTICE AND EQUALITY

The Law Society of Ireland ("the Law Society") and the Department of Justice and Equality ("the Department") have reached this understanding in relation to the authorisation and monitoring of persons who are a Trust or Company Service Provider ("TCSP") in accordance with and for the purposes of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended ("the 2010 Act").

1. The 2010 Act sets out extensive provisions regarding the authorisation and regulation of TCSPs by the Minister for Justice and Equality ("the Minister"). Under section 87 of the 2010 Act, a person commits an offence if the person carries on a business as a TCSP without being the holder of an authorisation issued by the Minister. However, section 84 of the 2010 Act prohibits solicitors from being a TCSP under the 2010 Act and therefore no authorisation requirements arise for solicitors.

2. While solicitors are prohibited from being a TCSP, they can provide trust and company legal services and when they do so they become a "designated person" under the 2010 Act. The definition of "relevant independent legal professional" in section 24(1) of the 2010 Act includes the provision of the following trust and/or company legal services:

    (iv) "organising contributions necessary for the creation, operation or management of companies;

    (v) creating, operating or managing trusts, companies or similar structures or arrangements."

3. The Law Society, as the competent authority for solicitors under sections 60 and 63 of the 2010 Act, has responsibility to monitor solicitors when they provide trust and company legal services and to take measures that are reasonably necessary for the purpose of securing compliance by solicitors with Part 4 of the 2010 Act.

4. Responsibility for the authorisation and monitoring of solicitors when they operate TCSPs through limited companies is vested in the Department.

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