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1 The Fintech Landscape

1.1 Please describe the types of fintech businesses that are active in your jurisdiction and the state of the development of the market, including in response to the COVID-19 pandemic and ESG (Environmental, Social and Governance) objectives. Are there any notable fintech innovation trends of the past year within particular sub-sectors (e.g. payments, asset management, peer-to-peer lending or investment, insurance and blockchain applications)?

Ireland has an active and thriving fintech sector that does not appear to have suffered significant disruption due to the COVID-19 pandemic. The types of fintech businesses active in this jurisdiction range from fast-scaling disruptive fintech firms to some of the world's best-known financial institutions, which continue to transform their products and systems for the digital world. The Irish fintech sector covers areas including payments, cryptocurrencies, blockchain, big data analytics, smart contracts and artificial intelligence ("**AI**"). The increased focus on ESG in the financial sector has also led to opportunities for fintechs in this space that are well placed to provide related technological innovations.

At European Union ("**EU**") level, the Markets in Crypto Assets Regulation ("**MiCA**") was formally approved by the European Parliament in April 2023. It will enter into force in 2024 in two parts: the first phase in June 2024 will deal with stablecoins; and the second phase in December 2024 will deal with crypto asset service providers ("**CASPs**"). This will have implications for any fintech business involved in the issuance, distribution or trading of digital assets or the provision of crypto-asset services. This is discussed further in the response to question 3.1 below.

1.2 Are there any types of fintech business that are at present prohibited or restricted in your jurisdiction (for example cryptocurrency-based businesses)?

There are no specific prohibitions or restrictions on any types of fintech business in Ireland. However, new fintech entrants to the Irish market should determine at the outset whether their activities or products will fall within the scope of regulation requiring prior authorisation or registration from the Central Bank of Ireland ("**Central Bank**").

2 Funding For Fintech

2.1 Broadly, what types of funding are available for new and growing businesses in your jurisdiction (covering both equity and debt)?

There are a number of funding options available for new and growing businesses in Ireland, including:

- equity financing (i.e., raising capital through the sale of shares);
- debt financing (i.e., raising capital by borrowing from a lender or bank);
- private equity investors (who typically invest in more established businesses for a controlling stake in the business);
- venture capital investors (who often invest in small and medium-sized enterprises ("**SMEs**") at an early stage in their growth, for a minority stake in the business); and
- crowdfunding.

2.2 Are there any special incentive schemes for investment in tech/fintech businesses, or in small/medium-sized businesses more generally, in your jurisdiction, e.g. tax incentive schemes for enterprise investment or venture capital investment?

Ireland offers several tax incentives and investment schemes to attract inward investment and which are available to tech/fintech start-ups and SMEs. These incentives, combined with a 12.5% rate of corporation tax on trading profits, are key tools used to promote commerce in the country.

Ireland has recently implemented the OECD Pillar Two agreement, providing for a global minimum effective tax rate ("**ETR**") of 15% on profits for businesses that have an annual group/global turnover in excess of €750 million. In implementing the rules, Ireland has adopted a top-up tax, which provides for in-scope companies to pay additional tax in Ireland to bring their ETR up to 15%.

Enterprise Ireland ("**EI**"), a government organisation responsible for the development and growth of Irish enterprises, supports early-stage tech/fintechs that have the capacity to succeed on a global scale, and provides a range of funding supports to both start-ups and established companies, including equity investments and tailored grants. Since 2019, EI has invested almost €175 million in growth and high-potential businesses, through direct equity investment and funding via its Seed and Venture Capital Scheme. More than 75% of this was granted to pre-seed or start-up ventures and over 60% was granted to technology ventures, with 19% granted to fintech ventures.

IDA Ireland, an FDI statutory agency, also offers funding programmes and incentives to businesses operating in Ireland, with investments and funding of over €1 billion relating to research, development and innovation activity in 2022. The latest iteration (https://www.gov.ie/pdf/?file=https://assets.gov.ie/238832/e6d8cd40-7d4a-48f3-863b-1726ab3eeaa6.pdf) of the government's Ireland for Finance strategy aims to add 5,000 more jobs in the sector by 2026, with a particular focus on growth in sustainable finance, fintech and digital financial services.

Ireland offers generous tax relief for capital expenditure on qualifying intellectual property ("**IP**") (including patents, copyright, trade marks, know-how, trade secrets), against the trading income of a company. Under this regime, tax write-offs can be claimed in line with the accounting treatment or at an annual rate of 7% of qualifying expenditure for 14 years and 2% in the final year. Capital allowances on expenditure incurred on qualifying IP are available for offset against income generated from qualifying IP, up to a maximum deduction of 80% of the relevant profits, with the balance carried forward against future profits.

Another attractive incentive available to start-ups and SMEs is the research and development ("**R&D**") credit which was recently increased by the government in Ireland's 2024 budget. The R&D tax credit was increased from 25% to 30% for all qualifying expenditure. This is to allow the R&D credit to remain attractive for entities in scope of Pillar Two but serves to benefit others too. The first-year payment threshold has doubled to €50,000, which is a significant cash-flow benefit to claimants, and a pre-notification requirement applies for companies intending to claim the R&D credit for the first time.

Ireland's Knowledge Development Box enables a company to pay an effective corporate tax rate of 10%, which is payable on qualifying profits arising from qualifying IP assets. Relevant profits must be earned from qualifying assets which are assets created from R&D activities, such as copyrighted software, patented inventions or in the case of certain small companies IP certified as patentable.

An Angel Investor Relief from Capital Gains Tax ("**CGT**") was recently introduced and is available to qualifying individuals or groups who invest in qualifying "innovative enterprises". There are several conditions that start-ups must meet to be eligible, and EI is responsible for the certification of eligible companies. The relief reduces the CGT rate (usually 33%) for qualifying investors, to either 16% or 18%, on a gain up to twice the value of their initial investment. There is a lifetime limit of €3 million on gains.

The Employment Investment Incentive ("**EII**") scheme allows individual investors to obtain tax relief on qualifying investments made in certified companies each year. Relief is claimed against an investor's income tax liability for the year in which the investment is made, provided they are resident in the State in the year they make the claim. The maximum amount of relief that can be claimed has recently doubled to €500,000, but the rate of relief available to an investor is dependent of the status of the investee companies. In addition, the lifetime limit on the amount a company can raise under the EII scheme has increased to €16 million.

Finally, a corporation tax holiday applies to certain start-up companies. The relief is linked to the amount of the employer's Pay Related Social Insurance ("**PRSI**") paid by the company, as it is intended to favour companies that generate employment, and applies for five years (or three years where the trade commenced before 2018) where the total amount of corporation tax payable does not exceed €40,000 in each year, with certain marginal relief above this level. Unused relief (due to insufficiency of profits) arising in the applicable initial period can be carried forward to future years, subject to conditions.

2.3 In brief, what conditions need to be satisfied for a business to IPO in your jurisdiction?

The Irish Stock Exchange, trading as Euronext Dublin, is the only equity exchange for IPOs in Ireland and is the competent authority for listing and admission to trading. It is authorised by the Central Bank to operate its four securities markets: Euronext Dublin; Euronext Growth; the Global Exchange Market; and the Atlantic Securities Market ("**ASM**").

Euronext Dublin

Euronext Dublin is Ireland's primary trading market and is a regulated market for the purposes of the Markets in Financial Instruments Directive II ("**MiFID II**"), which was transposed into Irish law by the EU (Markets in Financial Instruments) Regulations 2017 ("**MiFID Regulations**"). Listing on Euronext Dublin entails a dual submission to Euronext Dublin and the Central Bank. As such, issuers seeking the admission of securities to listing and trading on Euronext Dublin must ensure they are compliant with relevant EU legislation, including the Prospectus Regulation, the Transparency Directive and the Market Abuse Regulation, and demonstrate their compliance.

Listing on Euronext Dublin is recommended for larger and more established companies with substantial funding and resources.

The Euronext Dublin Rule Book II: Listing Rules (together with the Euronext-wide Rule Book I) set out the rules for the admission of securities to the regulated market. Chapter 2 of Book II sets out the conditions for the admission to listing of securities.

The two categories of listing available are primary and secondary. A primary listing is required unless the company is already listed on an overseas stock exchange. A secondary listing is less onerous in terms of the application process and is required where the company has a primary listing on an overseas stock exchange.

An applicant must appoint a sponsor who is registered by Euronext Dublin and will act as the point of contact between Euronext Dublin and the applicant during the process.

The main requirements for a primary or dual listing are:

- an applicant must be incorporated and operating in conformity with its memorandum and articles of association or constitution;
- an applicant must have published or filed independently audited accounts covering at least two years in respect of a period ending not more than 18 months before the date of its prospectus;
- an applicant must have sufficient working capital for at least the next 12 months from the date of publication of the prospectus for the shares that are being admitted to listing;
- a prospectus must be approved by the Central Bank and published, or where another Member State is the competent authority, it must supply the Central Bank with a copy of the approved prospectus, a certificate of approval and, if applicable, a translation of the prospectus;
- an applicant must demonstrate that it can carry on business independently of any controlling shareholder(s) of the applicant;
- the applicant's shares must be fully paid and free from all liens and from any restriction on the right of transfer, other than a restriction imposed for failure to comply with certain notice under the Companies Act 2014;
- the expected aggregate market value of all securities to be admitted to listing must be at least €1 million for shares,

unless Euronext Dublin is satisfied that there will be an adequate market for securities of a lower value; and
- 25% of the shares must, no later than at the time of admission to listing, be distributed to the public in one or more Member States, i.e., in public hands.

Most of the above requirements apply to secondary listings, other than the requirements regarding the publication of accounts and the conditions relating to assets, business activities and working capital.

Euronext Growth

Euronext Growth is an exchange-regulated market and a multilateral trading facility for the purposes of MiFID. However, it is not a regulated market subject to all EU regulatory regimes. It is therefore an alternative route for organisations that are at an earlier stage of development. The listing requirements and reporting requirements for Euronext Growth are lighter than for the regulated market.

Euronext Growth is suited to small and medium-sized companies aiming to raise funds to finance their growth. Applicants must, however, have a minimum market capitalisation of €5 million to be admitted.

The main requirements for a Dublin listing are set out in the Euronext Growth Markets Rule Book Part II: Additional rules for the Euronext Growth Market operated by Euronext Dublin.

ASM

ASM was set up 10 years ago for foreign companies that trade in euros and US dollars and are seeking dual Irish-American listings. It is primarily designed to align with the requirements of the US Securities and Exchange Commission, to attract companies listed on the New York Stock Exchange or Nasdaq.

2.4 Have there been any notable exits (sale of business or IPO) by the founders of fintech businesses in your jurisdiction?

There was a lack of IPO activity in this jurisdiction in 2023, with the only new listing being Aquila European Renewables PLC, a renewable energy investment company.

3 Fintech Regulation

3.1 Please briefly describe the regulatory framework(s) for fintech businesses operating in your jurisdiction, and the type of fintech activities that are regulated.

Ireland is home to a significant number of regulated fintechs, including electronic money institutions ("**EMIs**"), payment institutions ("**PIs**") and virtual asset service providers ("**VASPs**"). The trend of attracting fintechs to Ireland is likely to continue with the introduction of MiCA, and its regime for the authorisation of CASPs.

EMIs and PIs

In order to issue electronic money in Ireland, an entity must be either authorised as an EMI by the Central Bank pursuant to the European Communities (Electronic Money) Regulations 2011 ("**EMRs**") (or be authorised by another competent authority within the EU and passport its services into Ireland) or be exempt from the requirement to hold such an authorisation.

The EMRs transpose the Second Electronic Money Directive ("**EMD**") into Irish law. The EMRs were further amended by the EU (Payment Services) Regulations 2018 ("**PSRs**") (which transpose the Second Payment Services Directive (2015/2366/EC) ("**PSD2**") into Irish law).

In order to offer payment services in Ireland, an entity must be authorised by the Central Bank as a PI pursuant to PSD2 (or be authorised by another competent authority within the EU and passport its services into Ireland) or be exempt from the requirement to be authorised under PSD2. PSD2 was transposed into Irish law by the PSRs.

To obtain an authorisation as an EMI or PI, a firm must make an application to the Central Bank which must satisfy the Central Bank that the firm complies with the appropriate regulatory requirements.

Investment Firms

In order to offer investment services or perform investment activities as a regular occupation or business on a professional basis in Ireland, an entity must be:

(1) authorised by the Central Bank as an investment firm pursuant to MiFID II;
(2) be authorised by another competent authority within the EU and be passporting its services into Ireland; or
(3) be exempt from the requirement to be authorised under MiFID II.

The services available under a MiFID II authorisation relate to services connected with "financial instruments". The MiFID Regulations list a number of instruments that are considered to be "financial instruments", most notably "transferable securities".

"Transferable securities" are required to meet a number of requirements including:

- the instrument must belong to a class of securities (i.e., be fungible with one another, issued by the same issuer, show similarities and give access to the same rights to the same group of investors);
- the instrument must be capable of being negotiated on the capital markets; and
- the instrument must not be a payment instrument (e.g., a cheque or bill of exchange).

Crypto assets have the potential to be considered transferable securities under MiFID II if they possess the above characteristics.

Crowdfunding Activities

The Crowdfunding Regulation has applied since10 November 2021 and applies to:

- peer-to-peer crowdfunding platforms facilitating "business funding" (lending to consumers is excluded); and
- investment-based crowdfunding platforms in relation to transferable securities only.

Irish-based crowdfunding service providers ("**CSPs**") must apply for authorisation from the Central Bank. Details required as part of the authorisation process include capital requirements, the safekeeping of assets for investment-based crowdfunding, as well as certain audit, accounting, outsourcing, reporting and record-keeping requirements.

The activities a CSP can carry out do not extend to activities such as providing investment advice or carrying out portfolio management for clients. CSPs also cannot process payments on behalf of the platform, without a separate authorisation as an EMI or PI.

VASPs

The EU's Fifth Anti-Money Laundering Directive ("**5AMLD**") extended the Anti-Money Laundering and Countering the Financing of Terrorism ("**AML/CFT**") obligations to entities that provide certain services relating to virtual assets.

The 5AMLD was transposed into Irish law pursuant to the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021 ("**CJA 2021**"), which amends the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 ("**CJA 2010**").

As "designated persons" for the purposes of the CJA 2010, VASPs established in Ireland are required to register with the Central Bank for AML/CFT purposes only.

CASPs

As discussed above, MiCA is due to come into force imminently.

The Irish Department of Finance ("**DoF**") has opted to exercise its discretion to implement a transitional period of 12 months, rather than the maximum 18 months permitted under MiCA.

The DoF has opted not to implement the discretion to allow VASPs to avail of a simpler authorisation process under MiCA, on the basis that the existing VASP registration process cannot be compared to the more onerous MiCA authorisation process.

3.2 Is there any regulation in your jurisdiction specifically directed at cryptocurrencies or cryptoassets?

Please see the responses to question 3.1 above in relation to VASPs and CASPs.

3.3 Are financial regulators and policy-makers in your jurisdiction receptive to fintech innovation and technology-driven new entrants to regulated financial services markets, and if so how is this manifested? Are there any regulatory 'sandbox' options for fintechs in your jurisdiction?

The government is keen to ensure that Ireland continues to leverage its strong technology and financial services sectors to ensure the continued success of the fintech sector. In its Ireland for Finance strategy mentioned in the response to question 2.2 above, the Irish government acknowledged the importance of the fintech and digital finance industry in Ireland and set out its fintech-related priorities. This includes a proposal for a new national Fintech Hub, to foster innovation in the sector and to enable fintechs to collaborate.

The Central Bank launched an Innovation Hub in April 2018 as a means of enabling fintech firms to engage with the Central Bank outside of its formal processes.

In its recent Consultation Paper on the Central Bank's approach to innovation engagement in financial services (https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp-156/cp156-central-bank-approach-to-innovation-engagement-in-financial-services.pdf?sfvrsn=fb359d1d_8), the Central Bank announced its intention to establish a Regulatory Sandbox in 2024. This will provide stakeholders with access to regulatory insight and support to help them understand the potential regulatory implications of their product or business model.

3.4 What, if any, regulatory hurdles must fintech businesses (or financial services businesses offering fintech products and services) which are established outside your jurisdiction overcome in order to access new customers in your jurisdiction?

The main consideration for fintech businesses established outside Ireland that wish to offer their products and services to customers in this jurisdiction would be whether they fall in scope of any of the regulatory regimes outlined at in the response to question 3.1 above.

Of course, a fintech business that is authorised by a competent authority in another European Economic Area ("**EEA**") Member State can use this authorisation to offer products and services to customers in Ireland. A firm "passporting" its services into Ireland is prudentially regulated by the competent authority in its home country but will be subject to the Central Bank's "conduct of business" rules.

4 Other Regulatory Regimes / Non-Financial Regulation

4.1 Does your jurisdiction regulate the collection/use/transmission of personal data, and if yes, what is the legal basis for such regulation and how does this apply to fintech businesses operating in your jurisdiction?

The collection/use/transmission of personal data in Ireland, otherwise known as the processing of personal data, is regulated by Regulation (EU) 2016/679 (the General Data Protection Regulation ("**GDPR**")), which is supplemented in Ireland by the Data Protection Act 2018 ("**2018 Act**"). The Irish Data Protection Commission ("**DPC**") is the competent authority tasked with enforcing the GDPR in Ireland.

The GDPR imposes a wide range of obligations on data controllers and data processors including an obligation to adhere to data protection principles (including data minimisation, data security transparency, accountability) and to ensure that a legal basis for the processing of personal data (such as consent, legitimate interests, performance of a contract) and special category data (such as explicit consent) exists. The DPC is likely to consider the processing undertaken by fintech businesses as "high risk". This is because, while financial data does not constitute special category data, the DPC considers financial data to be sensitive data due to the risks that could arise from unauthorised processing of such data such as fraud or identify theft. Furthermore, fintechs will often be using sophisticated technology to process such data, another factor that renders a processing activity "riskier" in the eyes of the DPC.

What this means in practice for fintech businesses is, as part of their broader responsibility to comply with the GDPR and the 2018 Act, there is a need to carefully consider the risks associated with the processing of financial data, which may require documented assessments that support the use of such data (known as "data protection impact assessments") and related safeguards to secure the processing in question, including robust personal data breach processes and measures of this nature.

The DPC's remit also extends to compliance with other legal regimes, the most relevant of which is the ePrivacy Directive and Ireland's corresponding ePrivacy Regulations, which regulate how organisations deploy and interact with electronic communications; for example, how they deploy cookies and other tracking technologies and how they engage in electronic direct marketing.

4.2 Do your data privacy laws apply to organisations established outside of your jurisdiction? Do your data privacy laws restrict international transfers of data?

The GDPR applies to businesses that are established in any EU Member State. The GDPR can also apply to organisations established outside of the EU where the processing of personal data of data subjects in the EU relates to: (i) the offering of good or services to data subjects in the EU; or (ii) monitoring the behaviour of data subjects.

The GDPR contains the relevant rules on international transfers out of the EEA, with the default position being that such transfers are prohibited unless certain conditions are met. Section 37 of the 2018 Act gives the Irish State the power to make regulations expanding on these GDPR restrictions, but no such legislation has been enacted.

4.3 Please briefly describe the sanctions that apply for failing to comply with your data privacy laws.

The GDPR and the 2018 Act give the DPC wide-ranging powers of enforcement, with the headline sanctions being the power to suspend and prohibit data processing activities, impose significant administrative fines of up to €20 million or 4% of an organisation's worldwide annual turnover (whichever is higher) and prosecute criminal offences under the 2018 Act in the courts, where penalties can climb to €250,000 and/or five years in prison.

Unlike the position under the GDPR and the 2018 Act, the DPC does not have the power to issue fines under the ePrivacy Regulations (the ePrivacy Directive defers to Member States on the issue of penalties including criminal sanctions that apply for breaches of the rules) but does have other enforcement powers including the ability to prosecute offences in the courts or issue enforcement notices.

4.4 Does your jurisdiction have cyber security laws or regulations that may apply to fintech businesses operating in your jurisdiction?

- **GDPR**: Under the GDPR, controllers and processors of personal data are required to take appropriate security measures to protect against unauthorised access to, alteration, disclosure or destruction of personal data. Controllers are also obliged, in certain circumstances, to notify the DPC and affected data subjects of any personal data breaches.
- **Network and Information Systems**: The Security of Network and Information Systems Directive ((EU) 2016/1148) ("**NIS Directive**") was transposed in Ireland by the EU (Measures for a High Common Level of Security of Network and Information Systems) Regulations 2018 ("**NIS Regulations**"). The main objective of the NIS Directive, which applies to operators of essential services, is to ensure that there is a common high-level security of network and information systems across EU Member States. The NIS Directive will be replaced by Directive (EU) 2022/2555 ("**NIS2 Directive**"), which was adopted by the EU in 2022 and is due to be transposed in Ireland by 17 October 2024. Certain entities in the banking sector and financial market infrastructures will be caught by NIS2.
- **Digital Operational Resilience Act ("DORA")**: DORA is a package of two pieces of European legislation, a Regulation and a Directive, which aims to strengthen the IT security of financial institutions. DORA will apply to financial institutions including banks, insurance companies and investment firms but will also have substantial implications for IT service providers that count these institutions as customers. DORA was adopted in December 2022 and will enter into force in January 2025. DORA imposes a uniform set of rules for ICT risk management, incident reporting and operational resilience testing for financial institutions as well as for managing the risk posed by third-party ICT-providers. To this end, DORA will impose requirements on the contractual arrangements between financial institutions and ICT providers and will set the parameters of an oversight framework for managing these third-party risks.
- **Payment Services**: Under the PSRs, payment service providers are required to inform the national competent authority in the case of major operational or security incidents.

4.5 Please describe any AML and other financial crime requirements that may apply to fintech businesses in your jurisdiction.

The primary piece of legislation in Ireland on AML and CFT is the CJA 2010, which transposed the EU's Third Anti-Money Laundering Directive (2005/60/EC), its Implementing Directive (2006/70/EC) and the Fourth Anti-Money Laundering Directive ((EU) 2015/840) into domestic Irish law.

The CJA 2010 obliges firms within the scope of the Irish AML/CFT regime to put in place effective, risk-based AML/CFT procedures, which includes the application of a risk-based approach, customer due diligence measures ("**CDD**"), reporting of suspicious transactions, governance, policies and procedures, record keeping and training. The Central Bank is the competent authority for monitoring a firm's compliance with the CJA 2010 and is responsible for taking reasonable measures to secure compliance.

The CJA 2010 reflects, at both European and Irish level, the recommendations made by the Financial Action Task Force ("**FATF**"), which is a specialist international organisation that concentrates on the international fight against money laundering and terrorist financing ("**ML/TF**").

Firms are obliged to understand the level of risk presented by a customer and to apply a risk-based approach in their compliance programmes. To inform their risk-based approach and the level and extent of due diligence required, firms should have a detailed understanding of the ML/TF risks to which they are exposed and should carry out risk assessments as follows:

- A business risk assessment of the ML/TF risk to which the firm is exposed, depending on the nature and complexity of the firm's business.
- A customer risk assessment of the ML/TF risk to which the firm is exposed, due to a business relationship with a customer/an occasional transaction.

The level of CDD that the firm should apply will depend upon the nature of the relationship between the firm and its customer, the type of business conducted and the perceived ML/TF risks arising. The categories of CDD set out in the CJA 2010 are: simplified/low CDD; standard CDD; and enhanced CDD.

In addition to the above, the Funds Transfer Regulation sets out rules for payment service providers regarding information on payers and payees that must accompany the transfers of funds in order to help prevent and detect ML/TF.

4.6 Are there any other regulatory regimes that may apply to fintech businesses operating in your jurisdiction (for example, AI)?

Please see the response to question 3.1 above for a description of the regulatory regimes applicable to fintech businesses operating in Ireland.

5 Accessing Talent

5.1 In broad terms, what is the legal framework around the hiring and dismissal of staff in your jurisdiction? Are there any particularly onerous requirements or restrictions that are frequently encountered by businesses?

There are common law (i.e., judge-made law) and statutory rules governing the hiring and dismissal of staff in Ireland.

The legislative framework governing the employment relationship mainly consists of the following instruments:

- the Redundancy Payments Acts 1967 to 2014;
- the Unfair Dismissals Acts 1977 to 2015;
- the Payment of Wages Act 1991;
- the Maternity Protection Acts 1994 and 2004;
- the Adoptive Leave Acts 1995 and 2005;
- the Paternity Leave and Benefit Act 2016;
- the Terms of Employment (Information) Acts 1994 to 2014;
- the Minimum Notice and Terms of Employment Acts 1973 to 2005;
- the Protection of Employment Acts 1977 to 2014;
- the Safety, Health and Welfare at Work Act 2005 to 2014;
- the Pensions Acts 1990 to 2015;
- the Organisation of Working Time Act 1997;
- the Parental Leave Acts 1998 and 2019;
- the Employment Equality Acts 1998 to 2021;
- the National Minimum Wage Act 2000 and 2015;
- the Carer's Leave Act 2001;
- the Protection of Employees (Part-Time Work) Act 2001;
- the Protection of Employees (Fixed-Term Work) Act 2003,
- the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003;
- the GDPR;
- the Data Protection Acts 1988 to 2018;
- the Industrial Relations Acts 1946 to 2019 (as amended);
- the Protected Disclosures Acts 2014 to 2022;
- the Workplace Relations Act 2015;
- the Employment (Miscellaneous Provisions) Act 2018;
- the Parent's Leave and Benefit Act 2019;
- the Family Leave and Miscellaneous Provisions Act 2021;
- the Worklife Balance Miscellaneous Provisions Act 2023;
- the Sick Leave Act 2022; and
- the EU (Transparent and Predictable Working Conditions) Regulations 2022.

The most onerous requirements or restrictions encountered by businesses in the context of the employment relationship are the statutory restrictions on and requirements for a lawful dismissal.

At common law, an employer can terminate an employment relationship for any reason provided that it does so in accordance with the terms of the contract. However, under statute, an employee generally acquires "unfair dismissal" rights after 12 months' service, meaning that they cannot be dismissed without substantial grounds. Such substantial grounds include:

- the employee's capability, competence or qualifications;
- the conduct of the employee;
- redundancy;
- illegality arising from the employment (e.g., working without an employment permit); or
- some other substantial ground justifying the dismissal.

In addition to the need to establish a substantial ground justifying the dismissal, employers must also follow a fair procedure in dismissing an employee. An employer who dismisses an employee without substantial grounds or without following a fair procedure is liable to pay up to two years' gross remuneration to the employee, re-instate the employee or re-engage the employee. If an employee is dismissed for making a protected disclosure (i.e., whistleblowing), then they may be awarded up to five years' remuneration.

In addition to the requirements that dismissal be substantively and procedurally fair, an employee who is being dismissed must also, in general, be provided with adequate notice. The minimum notice period is set down in statute. The statutory minimum notice periods that employers must give employees range from one week to eight weeks, depending on the length of the employee's service. However, a longer notice period may be provided for in the terms of the contract of employment.

Importantly, there is no requirement to make a severance payment to an employee, unless the dismissal occurs by reason of redundancy. In such circumstances, a statutory payment must be made to the employee. Specifically, employees who have over two years' service with an employer and who are dismissed by reason of redundancy are entitled to a statutory redundancy payment calculated as follows:

- two weeks' normal remuneration for each year of continuous and reckonable service; plus
- a bonus week.

The weekly wage for the purposes of the calculation of a statutory redundancy payment is currently subject to a ceiling of €600 per week.

5.2 What, if any, mandatory employment benefits must be provided to staff?

The following mandatory benefits must be provided to staff:

- **Statement of Terms and Conditions**: All employees must be provided with a written statement of their terms and conditions of employment. For new employees, this should be done within five days of the commencement of their employment.
- **Annual Leave**: All employees who work at least 1,365 hours in a leave year are entitled to a minimum of four working weeks holiday in that leave year (i.e., 20 working days for full-time employees). If an employee works less than 1,365 hours, then he or she shall be entitled to one-third of a working week's holiday for every month in which that employee works over 117 hours, up to a maximum of four working weeks. Where the hours worked by an employee are less than 117 per month, he or she shall be entitled to 8% of hours worked in leave year as annual leave, up to a maximum of four working weeks.
- **Public Holidays**: Employees are entitled to 10 public holidays per year. An employer is not obliged to give the employee a day off, but instead may offer either a paid day off within a month, an extra day's pay or an extra day's annual leave.
- **Pension**: There is no obligation on an employer to operate a pension scheme. However, all employees are entitled to access to a Personal Retirement Savings Account ("**PRSA**"). The employer must facilitate the deduction of the employee's contribution from his or her salary and remit same to the PRSA (but there is no obligation on an employer to contribute to a PRSA). In addition, it is expected that, by the end of 2024, an auto-enrolment pension scheme will be introduced, requiring employers, employees and the government to contribute to the system.
- **Sunday Premium**: A premium must be paid for Sunday working, unless it has expressly been taken into account

when calculating the employee's salary. There is no "statutory" Sunday premium, and therefore an employer is expected to pay "industry practice".

- **Sick Pay**: Employees are currently entitled to 5 days' paid statutory sick leave and this will extend to seven days in 2025. Employees must be paid 70% of their normal weekly pay, up to a maximum of €110 per day, when taking such statutory paid sick leave.
- **Daily and Weekly Rest Breaks and Rest Periods**: An employee is entitled to an unpaid rest break at work of 15 minutes after having worked four hours and 30 minutes and a 30-minute rest break after having worked six hours (which includes the earlier 15-minute break). In addition, an employee is entitled to a daily rest break of at least 11 hours in every 24-hour period and a weekly rest period of at least 24 hours in each consecutive period of seven days or two rest periods of 24 hours in each fortnight preceded by a daily rest break.
- **Minimum Wage**: The National Minimum Wage Act 2000 provides that all experienced adult workers are guaranteed a statutory minimum wage, which is currently €12.70 per hour.
- **Maternity Leave**: An employee is entitled to 26 weeks' ordinary maternity leave together with an additional 16 weeks' additional maternity leave. There is no obligation on an employer to continue payment of an employee's salary during any period of maternity leave. There is, however, a statutory right to paid time off for ante-natal care and classes and post-natal medical care. An employee's right to annual leave and public holidays accrues whilst on both ordinary and additional maternity leave.
- **Paternity Leave**: An employee who is a "relevant parent" is entitled to two weeks' paternity leave. A "relevant parent" includes the child's father, the spouse/civil partner/cohabitant of the child's mother or sole male adopter. Same-sex couples jointly adopting a child must choose one parent to be the "relevant parent".
- **Health and Safety Leave**: This applies to pregnant employees, employees who have recently given birth and employees who are breastfeeding. The employer must carry out a risk assessment on the health and safety of the workplace in relation to these employees. If this reveals a risk, and it is not possible to adopt preventative measures, then the employee's working hours or conditions should be adjusted or the employee should be provided with other suitable work. If none of these options are possible, the employee is entitled to Health and Safety Leave, which will be paid by the employer for the first 21 days.
- **Adoptive Leave**: An employee is entitled to 24 weeks' ordinary adoptive leave together with an additional 16 weeks' additional adoptive leave. There is no obligation on an employer to continue payment of an employee's salary during any period of adoptive leave. An employee's right to annual leave and public holidays accrues whilst on both ordinary and additional adoptive leave.
- **Carer's Leave**: The Carer's Leave Act 2001 requires employers to facilitate unpaid leave of up to 104 weeks to approved carers and to hold their jobs open until the end of the care period. An employee must have at least 12 months' continuous service in order to be entitled to take carer's leave. Carers are entitled to Carer's Benefit from the State. During any period of carer's leave an employee will be entitled to all of his or her terms and conditions of employment save for remuneration, superannuation benefits, annual leave and public holidays (occurring after an employee's first 13 weeks of carer's leave).
- **Parental Leave**: Male and female workers with at least 12 months' continuous service are entitled to 26 weeks' unpaid leave in respect of each relevant child. The leave must be taken before the child is 12 years old (16 years old in the case of children with disabilities or in the case of an adopted child under 12, within two years of the date of the Adoption Order). The 26 weeks' leave may be taken continuously or in two separate blocks of a minimum of six continuous weeks under the relevant legislation. Alternatively, the leave may be taken on more favourable terms with the agreement of the employer. All employment rights (save for the right to remuneration) remain unaffected during the period of parental leave; and employees are entitled to return to the same job or, where this is not reasonably practicable, to suitable alternative employment.
- ***Force Majeure* Leave**: Employees are entitled to reasonable paid time off work to deal with an emergency situation concerning a dependant. This circumstance would arise where, for urgent family reasons, owing to an injury to or the illness of a specified person, an employee's immediate presence is indispensable. Leave of up to three days in any period of 12 consecutive months or five days in any period of 36 consecutive months may be taken.
- **Jury Leave**: An employer is obliged to continue the payment of the employee's salary during the period the employee is absent on jury duty.
- **Remote and Flexible Working**: There is no right to remote work or flexible work for care purposes in Irish law. However, employees have a right to *request* such arrangements and employers have a duty to assess and respond to such requests.
- **Medical Care Leave**: An employee is entitled to request up to five days of unpaid leave in any 12-month period for the purposes of providing personal care or support for their child, spouse or civil partner, cohabitant, parent or grandparent, brother or sister or housemate.
- **Domestic Violence Leave**: If an employee has experienced or is currently experiencing domestic violence and needs to take time off work to seek medical attention, obtain services from a victim services organisation, obtain counselling, relocate temporarily or permanently, obtain an order under the Domestic Violence Act 2018, seek legal advice/assistance, seek assistance from An Garda Síochána or obtain other relevant services, then they may take up to five days of paid domestic violence leave.

5.3 What, if any, hurdles must businesses overcome to bring employees from outside your jurisdiction into your jurisdiction? Is there a special route for obtaining permission for individuals who wish to work for fintech businesses?

Any EEA (EU, Norway, Iceland and Liechtenstein), Swiss or UK national may live and work in Ireland without the need to obtain any permission, visa or work permit. Generally speaking, all other persons must obtain a work permit to work in Ireland.

There are currently nine different types of employment permits in Ireland. While there is no special route for obtaining permission for individuals who wish to work for fintech businesses as such, the following major categories of employment permits are relevant to fintech businesses' needs:

- **Critical Skills Employment Permit**: This is targeted at high-skilled people with the aim of encouraging them to take up permanent residence in Ireland. Eligible occupations include ICT professionals, engineers and technologists,

which must have a minimum annual remuneration of €38,000, or €64,000 for all other occupations.
- **Intra-Company Transfer Employment Permit**: This permit is designed to facilitate the transfer of senior management, key personnel or trainees from an overseas branch of multinational corporation to its Irish branch.
- **General Employment Permit**: This permit covers a broad range of occupations. All occupations are eligible unless they are listed in the Ineligible List of Occupations for Employment Permits but must generally have a minimum annual remuneration of €34,000.

6 Technology

6.1 Please briefly describe how innovations and inventions are protected in your jurisdiction.

Inventions are primarily protected by patents in Ireland. An inventive product/process is patentable under Irish law if it:
- is susceptible to industrial application;
- is new; and
- involves an inventive step.

Certain inventions are specifically excluded under Irish law, including a discovery or scientific theory, an aesthetic creation, the presentation of information and computer programs. Patent protection lasts for up to 20 years from the date of the application, subject to the payment of renewal fees. Irish law also provides for the extension of full-term patents for pharmaceuticals for human or animal use for up to five years.

In addition, Irish law provides for short-term patents, which have a 10-year duration. The test of inventiveness for a short-term patent is lower than for a full-term patent, i.e., for a short-term patent the test is that the invention must be new, susceptible of industrial application and not clearly lacking an inventive step. Short-term patents may be converted to a full-term patent where they meet the requirements for a full-term patent.

In addition to patents, the other main protections of innovations and inventions are as follows:

Trade Marks

A trade mark under Irish law is any sign which is capable of distinguishing the goods or services of one undertaking from those of other undertakings.

Unregistered trade marks have a limited protection in Ireland through the law of passing off, in a manner similar to that applying in other common law jurisdictions such as the UK. Registered trade marks (be they national Irish marks, Madrid Protocol marks or EU trade marks) are registered initially for a 10-year period but, uniquely among IP rights, this term can be renewed indefinitely for successive 10-year terms on payment of a renewal fee. A trade mark registration will only remain valid to the extent that the mark is used by the owner in respect of the goods/services for which it was registered. Where a registered mark is not used, it is vulnerable to challenge by third parties and may be cancelled for those goods and services that the mark has not been used on.

Designs

Under Irish law, a "design" is defined as the appearance of the whole or a part of a product resulting from the features of a product or its ornamentation, including the lines, contours, colour, shape, texture or materials of the product itself or its ornamentation. In order to be registerable, a design must be "new" and have "individual character". Unregistered designs are also granted a level of protection under Irish law.

The total term of protection for designs under Irish law is 25 years, renewable at five-year intervals.

An unregistered design exists for a period of three years from the date the design is first made available to the public within the EU where the disclosure could reasonably have become known to those in the sector concerned, operating within the EU.

Copyright

Copyright is the legal form of protection used by the creators or authors of works (i.e., drawings, paintings, photographs, etc.) to protect the tangible form of all or part of their individual works. Irish law specifically recognises copyright in computer software as a literary work.

The duration of copyright protection varies according to the format of the work. By way of example, copyright in a literary, dramatic, musical or artistic work, or an original database, expires 70 years after the death of the author, irrespective of the date on which the work was first lawfully made available to the public.

Database Rights

Irish law provides protection for both original databases and "non-original" databases where substantial investment has been incurred in obtaining, verifying or presenting the contents of the database. Original databases are those in which the contents constitute the original intellectual content of the author. The protections for databases under Irish law prevent the unlawful extraction or re-utilisation of a substantial part of the database.

Where a copyright work is included in a database, copyright shall continue in that work as well as the separate database protections.

The protection of databases under Irish law expires 15 years from the end of the calendar year in which the making of the database was completed.

Trade Secrets

Irish and EU law provides for the protection of trade secrets. A trade secret is confidential business information which is used to give a business a competitive edge. The preservation of the confidentiality of the trade secret is instrumental to keeping a competitive advantage. A trade secret may also be described as "proprietary information" or "proprietary know-how". Trade secret protection is afforded without registration and can last without limitation in time, generally as long as confidentiality is maintained. In order for something to qualify as a trade secret, it must satisfy three requirements:
- the information must not generally be known or readily accessible in the relevant industry;
- the information must have commercial value because it is secret; and
- the information must be subject to reasonable steps, under the circumstances, to keep it secret.

6.2 Please briefly describe how ownership of IP operates in your jurisdiction.

IP ownership may be registered or unregistered depending on the type of IP asset in question. IP rights created by an employee during the course of their employment will be owned by the employer unless the contract of employment states otherwise. On the other hand, third-party contractors will own the IP rights in commissioned works unless the copyright has been assigned by written agreement to the commissioning entity.

Patents
A patent is generally owned by the inventor but may be owned by any other natural or legal person designated as the owner on the patent application or to whom the patent right is assigned. An application to record a security interest is made to the Intellectual Property Office of Ireland ("**IPOI**"), by using the relevant Form of Application, which is downloadable from the IPOI website.

Trade Marks
Trade mark ownership is based on registration with the IPOI. Trade mark applications can be filed online on the IPOI website and will require the payment of certain official fees. The initial filing fee is €70 and there is a fee of €177 payable on registration. For every additional class of goods and services added after the first class, an additional €70 will be payable. When making a specific filing with the IPOI, the relevant legislation and IPOI guidance should be consulted to determine:

i. the appropriate addressee;
ii. whether original documentation is required or if an email is sufficient;
iii. the number of copies of documentation required;
iv. details of any fees payable; and
v. any other procedural requirements that may be relevant to the particular filing.

Design Rights
Registered design rights are owned by the registered owner. Unregistered design rights are owned by the natural or legal personal responsible for making the products incorporating the designs available to the public.

Copyright
In Ireland, ownership in copyright automatically vests in the author of the copyrighted work (i.e., the author of the software); and for computer-generated works, the author is the person who undertakes the arrangements necessary for the creation of the work. There is not yet a settled provision in Irish law on the ownership of copyright created by the use of AI technologies.

Database Rights
Database rights are owned by the maker of the database.

Trade Secrets
Trade secrets are unregistered rights that are owned by the legal or natural person who has developed their subject matter (i.e., the original creator/developer of the recipe or formula).

6.3 In order to protect or enforce IP rights in your jurisdiction, do you need to own local/national rights or are you able to enforce other rights (for example, do any treaties or multi-jurisdictional rights apply)?

Ownership of national rights will enable the rights holder to enforce those rights in Ireland. In addition, Ireland is a party to the following treaties under which owners of foreign IP rights may enforce their rights:

- **Patents**:
  - The Patent Cooperation Treaty 1970 ("**PCT**") (https://www.wipo.int/treaties/en/registration/pct).
  - The European Patent Convention of the European Patent Office (https://www.epo.org/law-practice/legal-texts/epc.html).
- **Trade marks**:
  - The WIPO Madrid Agreement Concerning the International Registration of Marks 1891 (https://www.wipo.int/treaties/en/registration/madrid/summary_madrid_marks.html) and the Protocol relating to that Agreement (1989).
  - Paris Convention for the Protection of Industrial Property 1883 (https://www.wipo.int/treaties/en/ip/paris/summary_paris.html).
- **Design rights**:
  - The Hague Agreement Concerning the International Registration of Industrial Designs 1925 (https://www.wipo.int/treaties/en/registration/hague/summary_hague.html).
  - EU trade marks and Community design rights registered by the EU Intellectual Property Office ("**EUIPO**") can be enforced in Ireland.
- **Copyright**:
  - The Berne Convention for the Protection of Literary and Artistic Works (https://www.wipo.int/treaties/en/ip/berne).

6.4 How do you exploit/monetise IP in your jurisdiction and are there any particular rules or restrictions regarding such exploitation/monetisation?

IP rights can be assigned and licensed and it is also possible for security to be taken over IP assets. Registered security generally provides the strongest rights when assigned, licensed or secured but it is also possible to take security over most forms of unregistered IP. Most secured interests would be registered with the appropriate registry in order to put third parties on notice. There are no rules or restrictions regarding exploitation/monetisation of IP in Ireland.

Patents
Patents can be licensed, assigned and transferred under Irish law.

Trade Marks
Trade mark registration lasts for 10 years and can be renewed indefinitely for further 10-year periods once the renewal fee is paid. Registration allows the owner, subject to certain conditions, the exclusive right to use the trade mark for the goods and/or services for which the trade mark is registered and to license its use to third parties.

Copyright
Subject to certain exceptions, copyright allows the owner the exclusive right to exploit the work. Copyright may be licensed or assigned under Irish law.

Trade Secrets
The EU (Protection of Trade Secrets) Regulations 2018 transposed the EU Trade Secrets Directive into Irish law, introducing civil remedies for the unlawful use of a trade secret and restrictions on access to court hearings and documents to safeguard trade secrets in legal proceedings.

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