

# Law Society of Ireland Compensation Fund

Report and Financial Statements  
for the year ended  
31 December 2010



**LAW SOCIETY OF IRELAND COMPENSATION FUND**

**REPORT AND FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2010**

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## LAW SOCIETY OF IRELAND COMPENSATION FUND

### RESPONSIBILITIES OF THE REGULATION OF PRACTICE COMMITTEE

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The Regulation of Practice Committee is responsible for ensuring that financial statements are prepared each year which give a true and fair view of the state of affairs of the Law Society of Ireland Compensation Fund and of its result for that period. In preparing those financial statements the Regulation of Practice Committee:-

- selects suitable accounting policies and then applies them consistently;
- makes judgements and estimates that are reasonable and prudent; and
- prepares the financial statements on the going concern basis.

The Regulation of Practice Committee is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Compensation Fund. The Regulation of Practice Committee is also responsible for safeguarding the assets of the Compensation Fund and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

## **INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF LAW SOCIETY OF IRELAND COMPENSATION FUND**

We have audited the financial statements of the Law Society of Ireland Compensation Fund for the year ended 31 December 2010 which comprise the Income and Expenditure Account, the Statement of Total Recognised Gains and Losses, the Balance Sheet, the Cash Flow Statement, the Statement of Accounting Policies and the related notes 1 to 19. These financial statements have been prepared under the accounting policies set out in the Statement of Accounting Policies.

This report is made solely to the society's members, as a body. Our audit work has been undertaken so that we might state to the society's members those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the society and the society's members as a body, for our audit work, for this report, or for the opinions we have formed.

### **Respective responsibilities of the Regulation of Practice Committee and auditors**

As set out in the Statement of Responsibilities, the Regulation of Practice Committee is responsible for the preparation of financial statements that give a true and fair view of the results and state of affairs of the Compensation Fund. Our responsibility, as independent auditor is to audit the financial statements in accordance with International Standards on Auditing (UK and Ireland).

We report to you our opinion as to whether the financial statements give a true and fair view of the state of affairs of the Compensation Fund as at 31 December 2010 and of its result for the year then ended.

### **Basis of audit opinion**

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Regulation of Practice Committee in the preparation of the financial statements and of whether the accounting policies are appropriate to the Compensation Fund's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we evaluated the overall adequacy of the presentation of information in the financial statements.

### **Opinion**

In our opinion the financial statements give a true and fair view of the state of affairs of the Compensation Fund as at 31 December 2010 and of its deficit for the year then ended.

Deloitte & Touche  
Chartered Accountants and Registered Auditors  
Dublin

19 May 2011

## **LAW SOCIETY OF IRELAND COMPENSATION FUND**

### **STATEMENT OF ACCOUNTING POLICIES**

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#### **BASIS OF PREPARATION**

The financial statements have been prepared in accordance with the accounting policies set out below.

#### **ACCOUNTING CONVENTION**

The financial statements have been prepared under the historical cost convention as modified by the revaluation of investments.

#### **REVENUE RECOGNITION**

Recoveries from defaulting solicitors, disciplinary fines and levies imposed on solicitors, are recognised when received. Contribution income and all miscellaneous income is recognised on a receivable basis.

Recoveries from stop loss insurance policies are recognised when received.

#### **INVESTMENTS**

Investments are shown at market value. The difference between cost and market value is taken to a revaluation reserve and to the income and expenditure account to the extent that market value is below cost.

#### **CLAIMS**

Provisions are made in respect of notified claims and related expenses, where the Regulation of Practice Committee consider it likely that the Compensation Fund is liable for such claims and expenses.

#### **TAXATION**

Taxation is provided on taxable results at current rates.

Deferred tax is accounted for, on a full provision basis, on all timing differences that have originated but have not reversed by the balance sheet date. Deferred tax assets are recognised to the extent that they are regarded as more likely than not to be recoverable.

Deferred tax is recognised on timing differences arising on revaluation of investments to the extent that the Compensation Fund has, at the balance sheet date, entered into a binding agreement to sell the revalued investments.

#### **PENSION COSTS**

The society operates a multi employer defined benefit pension scheme and a hybrid scheme. Contributions are charged in the income and expenditure account over the anticipated working lives of employee members currently in service.

# LAW SOCIETY OF IRELAND COMPENSATION FUND

## INCOME AND EXPENDITURE ACCOUNT FOR THE YEAR ENDED 31 DECEMBER 2010

	Notes	2010 €	2009 €
<b>INCOME</b>			
Contributions receivable		5,328,222	5,278,034
Income and returns on investments	3	319,177	522,210
Recoveries from defaulting solicitors	4	329,875	2,135,975
Disciplinary fines and investigation levies		311,000	380,950
Litigation settlement	5	-	150,000
Insurance recovery	4	2,232,638	1,489,029
		<u>8,520,912</u>	<u>9,956,198</u>
<b>EXPENDITURE</b>			
Provision for claims	4	4,411,519	3,551,703
Insurance		1,113,130	995,406
Costs allocated from the Law Society of Ireland		1,240,856	1,294,039
Investigation and support staff salaries and expenses		2,213,230	2,224,930
Practice closure expenses		553,487	494,935
Legal and professional fees		192,989	582,654
Miscellaneous expenses		30,379	46,966
Reversal of impairment of investments		-	(547,163)
		<u>9,755,590</u>	<u>8,643,470</u>
<b>(DEFICIT)/SURPLUS BEFORE TAXATION</b>	6	<u>(1,234,678)</u>	<u>1,312,728</u>
Taxation	7	(12,520)	(157,004)
<b>(DEFICIT)/SURPLUS AFTER TAXATION</b>	12	<u>(1,247,198)</u>	<u>1,155,724</u>

The financial statements were approved by the Regulation of Practice Committee on 19 May 2011 and signed on its behalf by:

Michael Quinlan  
Chairman of the  
Regulation of Practice Committee

John Costello  
President of the  
Law Society of Ireland

LAW SOCIETY OF IRELAND COMPENSATION FUND

STATEMENT OF TOTAL RECOGNISED GAINS AND LOSSES  
FOR THE YEAR ENDED 31 DECEMBER 2010

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	<i>Note</i>	<b>2010</b> €	2009 €
Retained (deficit)/surplus for the financial year		<b>(1,247,198)</b>	1,155,724
Movement in unrealised surplus arising on revaluation of investments	13	<b>410,116</b>	1,461,926
Total recognised (losses)/gains for the year		<b>(837,082)</b>	2,617,650

All recognised gains and losses arose from continuing activities.

**LAW SOCIETY OF IRELAND COMPENSATION FUND**

**BALANCE SHEET AS AT 31 DECEMBER 2010**

	<i>Notes</i>	<b>2010</b> €	2009 €
<b>FIXED ASSETS</b>			
Financial assets	8	<b>19,988,165</b>	20,282,999
<b>CURRENT ASSETS</b>			
Debtors	9	<b>128,469</b>	28,245
Cash at bank and in hand		<b>343,372</b>	1,302,761
		<b>471,841</b>	1,331,006
<b>CREDITORS: (Amounts falling due within one year)</b>	10	<b>(947,841)</b>	(1,502,187)
<b>NET CURRENT LIABILITIES</b>		<b>(476,000)</b>	(171,181)
<b>TOTAL ASSETS LESS CURRENT LIABILITIES</b>		<b>19,512,165</b>	20,111,818
<b>PROVISIONS FOR LIABILITIES AND CHARGES</b>	11	<b>(5,920,120)</b>	(5,682,691)
<b>NET ASSETS</b>		<b>13,592,045</b>	14,429,127
<b>REVENUE RESERVES</b>	12	<b>11,720,003</b>	12,967,201
<b>REVALUATION RESERVE</b>	13	<b>1,872,042</b>	1,461,926
		<b>13,592,045</b>	14,429,127

The financial statements were approved by the Regulation of Practice Committee on 19 May 2011 and signed on its behalf by:

Michael Quinlan  
Chairman of the  
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John Costello  
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LAW SOCIETY OF IRELAND COMPENSATION FUND

CASH FLOW STATEMENT  
FOR THE YEAR ENDED 31 DECEMBER 2010

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	<i>Notes</i>	<b>2010</b> €	2009 €
<b>NET CASH OUTFLOW FROM OPERATING ACTIVITIES</b>	14	<b>(1,950,976)</b>	(361,891)
<b>RETURNS ON INVESTMENTS AND SERVICING OF FINANCE</b>			
Dividends and interest received		<b>173,345</b>	185,793
<b>TAXATION</b>			
Taxation paid		<b>(32,540)</b>	(140,889)
<b>MANAGEMENT OF LIQUID RESOURCES</b>			
Purchase of investments		<b>(7,039,869)</b>	(11,032,922)
Disposal of investments		<b>7,890,651</b>	11,285,645
		<b>850,782</b>	252,723
<b>DECREASE IN CASH</b>	15	<b>(959,389)</b>	(64,264)

## LAW SOCIETY OF IRELAND COMPENSATION FUND

### NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2010

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#### 1. GOING CONCERN

The Compensation Fund had a deficit for the year of €1,247,198 and had net current liabilities of €476,000 at the balance sheet date.

The Compensation Fund has however €19.9m of financial assets at its disposal which are readily convertible. Therefore the Regulation of Practice Committee considers it appropriate to prepare the financial statements on a going concern basis.

The financial statements do not include any adjustments to the carrying amount and classification of assets and liabilities that may arise if the Compensation Fund was unable to continue as a going concern.

#### 2. PRESENTATION OF FINANCIAL STATEMENTS

The financial statements cover the activities of the Law Society of Ireland Compensation Fund. Separate financial statements are prepared in respect of the other activities of The Law Society of Ireland.

#### 3. INCOME AND RETURNS ON INVESTMENTS

	2010 €	2009 €
Surplus on sale of investments	145,832	336,417
Dividends and interest receivable	173,345	185,793
	<u>319,177</u>	<u>522,210</u>

#### 4. NET COST OF CLAIMS AFTER RECOVERIES

	2010 €	2009 €
Provision for claims (Note 11)	4,411,519	3,551,703
Recoveries from defaulting solicitors	(329,875)	(2,135,975)
Net cost of claims	<u>4,081,644</u>	<u>1,415,728</u>

The Compensation Fund has stop loss insurance policies in place which are subject to an excess of €5,000,000, in any year. No insurance recoveries apply in respect of the 2010 or 2009 claim years.

In 2008 the net cost of claims exceeded €5,000,000 and the excess was claimable under the stop loss policies. Claims have been made in accordance with the policies and in 2010 €2,232,638 (2009: €1,489,029) was recovered. The Regulation of Practice Committee has estimated the maximum recoveries remaining at €978,362. However, the precise amount and timing of such recoveries are uncertain. Therefore, no receivables have been recognised in the financial statements in this regard.

#### 5. LITIGATION SETTLEMENT

There were no litigation settlements in 2010. During the course of 2009 the Compensation Fund settled a litigation claim for €150,000.

#### 6. (DEFICIT)/SURPLUS BEFORE TAXATION

	2010 €	2009 €
The (deficit)/surplus before taxation is stated after charging:		
Auditor's remuneration	4,600	4,600
	<u>4,600</u>	<u>4,600</u>

**LAW SOCIETY OF IRELAND COMPENSATION FUND**

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2010 (CONTINUED)**

**7. TAXATION**

The Compensation Fund is liable to income tax on investment income and gains.

	<b>2010</b> €	2009 €
Capital gains tax	-	85,835
Income tax	<b>44,040</b>	61,596
Adjustment in respect of prior years	<b>(26,256)</b>	7,052
	<u><b>17,784</b></u>	<u>154,483</u>
Deferred tax (credit)/charge	<b>(5,264)</b>	2,521
	<u><b>12,520</b></u>	<u>157,004</u>

The effective tax rate for the year is different to the standard rate of income tax, which is 20%. The differences are explained as follows:

	<b>2010</b> €	2009 €
(Deficit)/surplus before taxation	<b>(1,234,678)</b>	1,312,728
(Deficit)/surplus multiplied by standard rate of income tax of 20%	<b>(246,936)</b>	262,546
<b>Effects of:</b>		
Income not subject to taxation	<b>(1,660,141)</b>	(1,934,608)
Expenses not deductible for tax purposes	<b>1,951,117</b>	1,819,493
Adjustment in respect of prior years	<b>(26,256)</b>	7,052
	<u><b>17,784</b></u>	<u>154,483</u>

**8. FINANCIAL ASSETS**

**Listed investments – at market value**

	<b>2010</b> €	2009 €
Market value at end of year	<b>19,988,165</b>	20,282,999

At 31 December 2010, the market value of investments exceeded cost by €1,872,042 (2009: €1,461,926)

**9. DEBTORS: (Amounts falling due within one year)**

	<b>2010</b> €	2009 €
Other debtors	<b>113,713</b>	28,245
Corporation tax recoverable	<b>14,756</b>	-
	<u><b>128,469</b></u>	<u>28,245</u>

**LAW SOCIETY OF IRELAND COMPENSATION FUND**

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2010 (CONTINUED)**

<b>10. CREDITORS:</b> (Amounts falling due within one year)	<b>2010</b>	2009
	€	€
Accruals	226,275	634,102
Amounts due to the Law Society of Ireland	721,566	868,085
	<u>947,841</u>	<u>1,502,187</u>
	<u><u>947,841</u></u>	<u><u>1,502,187</u></u>
 <b>11. PROVISIONS FOR LIABILITIES AND CHARGES</b>	 <b>2010</b>	 2009
	€	€
<b>Provision for claims:</b>		
At beginning of year	5,660,133	6,792,325
Provision made	4,411,519	3,551,703
Claims paid	(4,168,826)	(4,683,895)
At end of year	<u>5,902,826</u>	<u>5,660,133</u>
	<u><u>5,902,826</u></u>	<u><u>5,660,133</u></u>
<b>Deferred tax:</b>		
At beginning of year	22,558	20,037
(Credit)/charge for the year	(5,264)	2,521
At end of year	<u>17,294</u>	<u>22,558</u>
	<u><u>17,294</u></u>	<u><u>22,558</u></u>
At end of year	<u>5,920,120</u>	<u>5,682,691</u>
	<u><u>5,920,120</u></u>	<u><u>5,682,691</u></u>
The entire deferred tax provision at 31 December 2010 and 2009 related to investment income, which is not taxed until received.		
 <b>12. RECONCILIATION OF REVENUE RESERVES</b>	 <b>2010</b>	 2009
	€	€
Accumulated surplus at beginning of year	12,967,201	11,811,477
(Deficit)/surplus for year	(1,247,198)	1,155,724
Accumulated surplus at end of year	<u>11,720,003</u>	<u>12,967,201</u>
	<u><u>11,720,003</u></u>	<u><u>12,967,201</u></u>
 <b>13. REVALUATION RESERVE</b>	 <b>2010</b>	 2009
	€	€
<b>Unrealised surplus on investments:</b>		
At beginning of year	1,461,926	-
Movement during year	410,116	1,461,926
At end of year	<u>1,872,042</u>	<u>1,461,926</u>
	<u><u>1,872,042</u></u>	<u><u>1,461,926</u></u>

LAW SOCIETY OF IRELAND COMPENSATION FUND

NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2010 (CONTINUED)

<b>14. RECONCILIATION OF (DEFICIT)/SURPLUS BEFORE TAXATION TO NET CASH OUTFLOW FROM OPERATING ACTIVITIES</b>	<b>2010</b> €	<b>2009</b> €
(Deficit)/surplus before taxation	(1,234,678)	1,312,728
Dividends/interest received	(173,345)	(185,793)
Surplus on disposal of investments	(145,832)	(336,417)
(Increase)/decrease in debtors	(85,468)	8,358
Decrease in creditors	(311,653)	(613,604)
Reversal of impairment of investments	-	(547,163)
<b>NET CASH OUTFLOW FROM OPERATING ACTIVITIES</b>	<b>(1,950,976)</b>	<b>(361,891)</b>

<b>15. (a) ANALYSIS OF CHANGES IN NET FUNDS</b>	<b>2010</b> €	<b>2009</b> €
Decrease in cash during the year	(959,389)	(64,264)
Net funds at 1 January	1,302,761	1,367,025
<b>Net funds at 31 December</b>	<b>343,372</b>	<b>1,302,761</b>

<b>(b) ANALYSIS OF NET FUNDS</b>	<b>At</b> <b>1/1/2010</b> €	<b>Cashflow</b> €	<b>At</b> <b>31/12/2010</b> €
Cash and bank balances	1,302,761	(959,389)	343,372

**16. RELATED PARTY TRANSACTIONS**

During the year the expenditure of the Compensation Fund included expenses and payroll costs totalling €4,157,217 (2009: €4,084,451) which were recharged to it by the Law Society of Ireland. The amount due to the Law Society of Ireland at the year end is shown at Note 10.

**17. CONTINGENT ASSET**

A contingent asset exists in relation to claims under an insurance policy in respect of 2008. Full details are set out at Note 4.

**18. PENSIONS**

The Law Society of Ireland and the Law Society of Ireland Compensation Fund are the participants in a multi-employer defined benefit pension scheme, operated by the Society. It is not practicable to separate the assets and liabilities of the scheme, and accordingly, the Law Society of Ireland Compensation Fund has availed of an exemption under Financial Reporting Standard 17 from making the disclosures required under the standard.

The scheme provides benefits based on final pensionable pay. Contributions to the scheme are charged to the income and expenditure account so as to spread the cost of pensions over employees' working lives. The contributions are determined by a qualified actuary on the basis of valuations every three years, using the prospective benefits method. The most recent valuation was completed as at 31 December 2009. The assumptions which have the most significant effect on the results of the valuation are those relating to the discount rate, the rates of increase in salaries and the rate of increase in pensions in payment. In preparing that valuation, it was assumed that the discount rate would be 6% per annum pre retirement and 5% per annum post retirement, that future salary increases would average 4.5% per annum, and that pensions in payment will increase at 2.5% per annum on average. In effect, this means that the investment return pre retirement would be 1.5% higher per annum than future salary increases and the investment return post retirement would be 2.5% higher per annum than pension increases.

The Trustees obtained the consent of the Law Society of Ireland Compensation Fund to, on a discretionary basis, index pensions in payment on an annual basis. Increases are the lesser of the CPI increase or 3%. Members of the Scheme who wish to be considered for this indexation pay a higher contribution rate of 8% of pensionable salary.

The last actuarial valuation was at 31 December 2009 and it indicated that the market value of the assets of the scheme was €12,700,000 and that the assets were sufficient to cover 73% of the benefits, that had accrued to members, after allowing for expected future increases in pensionable salaries and increases to pensions in payment which are discretionary. It was recommended that the society's annual contribution increase to 25% of pensionable salaries. This recommendation was implemented in 2010. The society's defined benefit Scheme has been closed to new entrants since 30 September 2009 and has been replaced by a hybrid scheme with the defined benefit element capped at €45,000.

The actuary carries out an annual update on the minimum funding standard position of the Scheme. The Scheme met the Minimum Funding Standard at 31 December 2010.

The next formal review of the financing of the Scheme will take place at 31 December 2012 (the date of the next actuarial valuation).

The pension charge for the year was €264,284 (2009: €174,570).

**19. COMPARATIVE FIGURES**

Comparative figures are reclassified where necessary on a basis consistent with current year presentation.