Opening Statement by Robert Troy TD, Minister of State for Trade Promotion, Digital and Company Regulation

To the Joint Committee on Enterprise Trade & Employment

Wednesday 7 October 2020

Chair, Deputies and Senators

Thank you for the invitation to speak here today on Parts 4 and 5 to the Omnibus Brexit Bill.

Part 4 of the Bill, while short and technical, nevertheless forms an important part of Ireland's response to the UK's decision to leave the EU.

It amends the Companies Act 2014 to facilitate migration of Irish securities from their current central securities depository, Euroclear UK & Ireland, to Euroclear Bank after Brexit.

Central securities depositories (or CSDs) are specialist financial institutions that hold securities and facilitate trading between market operators. They are a vital and systemic part of the financial market infrastructure.

Due to the close historic links between the Dublin and London stock exchanges, the Irish market currently relies upon a CSD based in the UK which operates the CREST settlement system. Once the UK becomes a third country, this CSD will no longer be able to passport its services from the UK into Ireland.

As a result, Euronext Dublin, formerly the Irish Stock Exchange, announced in October 2018 that it would transfer the settlement of trades in Irish equities and other exchange-traded instruments from CREST to Euroclear Bank which is a CSD based in Belgium.

Recognising the time and complexity involved in such a transition, the European Commission granted in December 2018 equivalence to UK CSDs until the end of March 2021 in the event of a hard Brexit.

The Migration of Participating Securities Act 2019, commenced by my colleague the Minister for Finance earlier this year, allows for an orderly migration *en bloc* of all Irish securities held in the UK system to the new system ahead of the 31st of March 2021 deadline.

While the 2019 Act provides a once-off mechanism for companies to transfer their listed securities from CREST to Euroclear Bank, Part 4 of this Bill provides for miscellaneous amendments to the Companies Act 2014 to ensure the successful functioning of the model post-migration.

A successful migration and functioning securities system after Brexit, enabled by statutory provision, is imperative.

In the absence of a successful migration it would not be possible to trade Irish shares once the European Commission's temporary equivalence decision expires in March 2021. While the 2019 Act takes care of the immediate risks, any ongoing issues with the functioning of the system would have a significant impact on Irish listed companies and would damage Ireland's reputation as a world class location for financial services. In addition, the ongoing collection of stamp duty on Irish trades, which totalled some €380 million in 2019, would be impacted.

Part 5 of the Bill provides for a small technical amendment to Section 10(2) of the Employment Permit Acts 2006 to avoid disruption for business when the Brexit transition period ends.

The Employment Permit Regime is governed by the Employment Permit Acts 2006 (as amended). It contains a number of protections for the domestic and European Economic Area labour markets. Among the safeguards is the 50:50 rule, which requires that

employers seeking to hire non-EEA nationals on an employment permit have sourced at least 50% of their workforce from Ireland or the EEA or Swiss Confederation. This policy underpins the Government's employment creation objectives by requiring employers in the State to hire in a balanced manner from the domestic labour market. As the legislation is currently drafted, UK citizens are included under EEA figures.

When the Brexit transition period ends, under the terms of the Common Travel Area, UK citizens will not be required to obtain an employment permit to work in Ireland. The same will apply to Irish citizens working in the UK.

However, under the Employment Permit Acts, as currently drafted, when the transition period ends, UK citizens would fall outside the EEA category for the purpose of the 50:50 rule.

This would give rise to considerable disruption for companies who are applying for new employment permits and for companies applying for employment permit renewals because they may not satisfy the 50:50 rule if they are unable to include UK citizen employees, as they do at present, in the EEA/Swiss employee count.

To avoid disruption for business, Part 5 of the Bill provides for an amendment to Section 10(2) of the Employment Permit Acts 2006 to facilitate the continued inclusion of UK citizens in this employee count and this needs to be in place at the point when the Brexit transition period ends.

The proposed amendments to the Companies Act and the Employment Permit Acts are just one technical part of the Government's wider work to ensure business is Brexit ready regardless of the outcome of the EU-UK future partnership negotiations.

I am happy to address any questions the Committee may have.

Thank you