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Technical Releases

TR 02/2015 - Companies Act 2014

Financial reporting and related issues

Readers of this document should note that the Companies Act 2014 is a significant and new piece of legislation whose interpretation and meaning is as yet untested. This document cannot be relied upon to identify all changes from existing company law nor provisions which are new introduced by the Companies Act 2014. Chartered Accountants Ireland is continuing to consider the implications of various provisions of the Companies Act 2014 and may issue further commentary in due course.

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1.INTRODUCTION

The Companies Act 2014 ('CA 2014') was signed into law on 23 December 2014. The vast majority of the provisions of CA 2014 are to commence on 1 June 2015. With limited exceptions the accounting and auditing related provisions commence for financial statements approved on or after 1 June 2015. Accordingly, directors' reports and financial statements approved on or after 1 June 2015 refer to the Companies Act 2014.

This technical release focusses on the requirements with regard to the following financial reporting and related issues:

- Accounting records;
- Financial year end;
- Requirements regarding the preparation of statutory financial statements;
- Directors' reports;
- 'Companies Act financial statements' formats and note disclosures;
- Disclosure of directors' remuneration;
- Directors' and officers' transactions;
- Abridged financial statements;
- Annual return and annual return date;
- Publication;
- Voluntary revision of financial statements;
- Offences.

This technical release is intended to assist members in familiarising themselves with some of the key changes in the law on commencement of CA 2014 and not to be an in-depth analysis of the relevant provisions of CA 2014.

Except where otherwise stated, the requirements of Part 6 discussed in this document apply to a private company limited by shares ('LTD') as well as to the following company types that may be formed under CA 2014:

- A designated activity company ('DAC');
- A public limited company ('PLC');
- A company limited by guarantee ('CLG');
- A private unlimited company ('ULC');
- A public unlimited company ('PUC');
- A public unlimited company that has no share capital ('PULC').

All section references in this document are to sections of CA 2014, unless specifically stated otherwise. References to 'International Financial Reporting Standards' or 'IFRS' in this document are to international financial reporting standards as adopted by the European Union in accordance with the IAS Regulation.

2.ACCOUNTING RECORDS

The provisions of CA 2014 regarding the keeping of accounting records by a company are largely a re-enactment of the requirements in previous Companies Acts[1], which have been broken down into their constituent parts:

(a)Obligation to keep adequate accounting records (section 281);
(b)Where accounting records are to be kept (section 283);
(c)Basic requirements for accounting records (section 282);
(d)Access to accounting records (section 284);
(e)Retention of accounting records (section 285);
(f)Accounting records: offences (section 286);

along with new provisions which, among other things, address records kept in computerised form. These changes, which are summarised below, are effective from 1 June 2015.

Obligation to keep adequate accounting records

The previous Companies Acts required a company to keep "proper books of account". CA 2014 has altered this term to "adequate accounting records".

As set out in section 282(1), adequate accounting records are those that are sufficient to:

(a)correctly record and explain the transactions of the company;
(b)enable, at any time, the assets, liabilities, financial position and profit or loss of the company to be determined with reasonable accuracy;
(c)enable the directors to ensure that any financial statements of the company, required to be prepared under section 290 or 293, and any directors' report required to be prepared under section 325, comply with the requirements of CA 2014 and, where applicable, Article 4 of the IAS Regulation; and
(d)enable those financial statements of the company so prepared to be audited.

Where accounting records are to be kept

Consistent with previous Companies Acts, section 283 provides that a company's accounting records are required to be kept at its registered office or at such other place as the directors think fit.

Accounting records kept in the State – Computer servers

Where a 'server computer' provides services to another computer which are necessary for the accounting records stored in that second mentioned computer to be accessed at all times, section 282(6) requires the server computer to be located in the State. This new condition may give rise to practical difficulties in certain circumstances – for example, in a multi-national business environment where records are maintained in a number of geographical locations or where third party shared service providers are employed.

Accounting records kept outside the State

Consistent with previous Companies Acts, section 283 provides that if accounting records are kept at a place outside the State, information and returns relating to the business dealt with in the accounting records as are sufficient to:

(a)disclose with reasonable accuracy the assets, liabilities, financial position and profit or loss of that business at intervals not exceeding six months; and

(b)enable to be prepared in accordance with Part 6 (and, where applicable, Article 4 of the IAS Regulation) the company's statutory financial statements required by section 290 or 293 and the directors' report required by section 325;

are required to be sent to and kept at a place in the State (section 283(2)).

Where the accounting records are kept outside the State, CA 2014 now provides a mechanism for the Minister to impose requirements on a company to keep its accounting records in such a manner that will provide for effective access to those records (section 282(7)).

Basic requirements for accounting records

While terminology has changed, there are no substantive changes in the requirements, other than as set out below.

Precautions where entries are made other than in a 'bound book'

While previous Companies Acts alluded to the possibility that the books of account may kept in other than a hard-copy format[2], CA 2014 explicitly recognises such a prospect ("...if those records are not kept by making entries in a bound book but by some other means ..." (section 282(2)). There is an ancillary proviso in section 282(2) that, in such situations, "adequate precautions shall be taken for guarding against falsification and facilitating discovery of such falsification, should it occur". A company will need to consider its existing arrangements in this regard.

Additional obligation for holding companies

CA 2014 contains a new requirement for a holding company, which has a subsidiary undertaking not subject to the provisions of CA 2014 (for example, a company not incorporated in the State), to take "all reasonable steps" to secure that the subsidiary undertaking keep such adequate accounting records as will enable the directors of the holding company to ensure that any group financial statements required to be prepared under Part 6 comply with the requirements of CA 2014 and, where applicable, Article 4 of the IAS Regulation (section 282(8) and (9)).

Access to accounting records

Previous Companies Acts included a positive requirement for a company to make its books of account available for inspection by the officers and other persons so entitled pursuant to legislation[3]. CA 2014 explicitly states that no member of the company (not being a director) has any right of inspection – unless as provided by statute, the company's constitution, or authorised by the directors or by the company in general meeting (section 284(3)).

Retention of accounting records

The requirements of section 285 are effectively the same as those that applied under previous Companies Acts.

Accounting records: offences

Contraventions of the provisions of CA 2014 in respect of accounting records are considered serious, as demonstrated by their classification as either category 1 or category 2 offences. Section 13 of this document discusses certain aspects of the offences regime under CA 2014, including changes made with respect to contraventions of the requirements pertaining to accounting records.

Other provisions pertaining to accounting records

Directors' report: general matters (Section 326)

Consistent with previous Companies Acts, a company is required to include in the Directors' Report a statement of the measures taken by the directors to secure compliance with the requirements with regard to the keeping of accounting records and the exact location of those records.

Personal liability of officers of company where adequate accounting records not kept (Section 609)

Consistent with previous Companies Acts, where a company is being wound up and is unable to pay all of its debts, personal liability for some or all of those debts may be imposed on officers of a company in certain circumstances where adequate accounting records were not kept.

3.FINANCIAL YEAR END

A new term in CA 2014 is the '*Financial Year End*'.

CA 2014 states that a company's first financial year is the period beginning with the date of its incorporation and ending on a date no more than 18 months after that date. Unless altered by the directors, each subsequent financial year of a company begins with the day immediately after its previous financial year end date and continues for 12 months (or such period as the directors may determine to its next financial year end date – so long as it is not more than seven days shorter or longer than 12 months) (section 288(1) and (2)).

While the length of a financial year end was not specified in previous Companies Acts, the general rules surrounding annual general meetings and also the CRO's concept of 'amalgamated accounts' effectively resulted in the same restriction on the maximum length of a reporting period suitable for financial statements filed with an annual return.

Alteration of financial year end date

A company may alter its current financial year end date (i.e. where, during the financial year directors elect to change the year end date) or its previous financial year end date (i.e. where, after the financial year end, the directors elect to change the financial year end date) by giving notice to the Registrar as required by section 288(4). However there are several restrictions on this ability, namely:

(a)the resulting financial year should not be in excess of 18 months (section 288(7)); and

(b)a notice should not be given in respect of a previous financial year end date if the period for delivering to the Registrar financial statements and reports for that previous financial year has expired (section 288(8)); and

(c)a notice is not valid if given less than 5 years after the day on which there has fallen the new financial year end date specified in a previous notice (section 288(9)), unless:

- (i)that notice has the effect of aligning the financial year end date of the company with that of an EEA holding undertaking or subsidiary undertaking; or
- (ii)the company is being wound up; or
- (iii)the Director of Corporate Enforcement, on application by the company, directs that it is valid (section 288(10)).

Each subsequent financial year end date should be the anniversary of the new financial year end date specified in that notice (subject to (i) being no more than seven days shorter or longer than 12 months, or (ii) subsequent alteration by notice to the Registrar)(section 288(5)).

Table 1 – Annual Return Date example

Annual Return Date 30 September 2015				
Year End 31 December 14			Year End 31 December 15	New Year End 30 June 16

As an example and taking the fact pattern in Table 1 above. If, after commencement of the Act, the directors of a company determine that it is desirable to change the year end date of the company (currently 31 December 2014), the notice referred to above must be filed with the Registrar within the timeframe permitted with the Act for filing the 30 September 2015 annual return. The period, to which the directors may extend (or indeed reduce) the financial year, is capped at 30 June 2016, being eighteen months after the previous financial year. The directors are then unable to alter this financial year until 30 September 2020, being five years after the initial filing of the notice to alter the financial year end, unless the circumstances as specified in section 288(10) and repeated in (c) above are applicable.

Financial year end dates of subsidiaries

Section 288(3) provides that the directors of a holding company should ensure the financial year end dates of each of the subsidiary undertakings included in its consolidation coincide with that of the holding company. To the extent that those subsidiary undertakings' financial year ends do

not coincide with that of the holding company, the reasons for not aligning the year ends are required to be disclosed in the notes to the statutory financial statements of the holding company.

Where the financial year of a subsidiary does not coincide with that of the holding company, paragraph 3(2) of Schedule 4 requires that the subsidiary undertakings' financial year end may not end more than three months prior to the financial year end of the holding company. Where this is not the case 'interim financial statements' must be drawn up for the subsidiary undertaking as of the financial year end of the holding company.

Financial year end and Annual return date

While the alteration of the financial year end date operates independently of the annual return date, the date to which the statutory financial statements are made up must not predate the annual return date by more than nine months.

4.REQUIREMENTS REGARDING THE PREPARATION OF STATUTORY FINANCIAL STATEMENTS

A company may alter its financial year subject to the requirements in section 288. The filing of a form B83 with the Registrar is required.

Statutory financial statements to give a true and fair view

Sections 290 and 293 require directors to prepare entity or group financial statements, as the case may be, for each financial year.

Section 289 requires that the directors of a company should not approve financial statements of a company or the company's group unless they are satisfied that they give a true and fair view of the assets, liabilities and financial position, as at the end of the financial year, and of the profit or loss for the financial year.

Preparation of entity financial statements

As with previous Companies Acts, a company can prepare its entity financial statements in accordance with International Financial Reporting Standards (EU adopted IFRS), called "IFRS entity financial statements", or in accordance with CA 2014 and applicable accounting standards, called "Companies Act entity financial statements".

Companies Act entity financial statements are required to comply with:

(a)the provisions of Schedule 3 as to the accounting principles to be applied, the form and content of the balance sheet and profit and loss account, and the additional information to be provided by way of notes to the financial statements;
(b)applicable accounting standards; and
(c)the other provisions of CA 2014.

Companies Act formats will apply to CLGs and unlimited companies not trading for gain.

In the case of IFRS entity financial statements, the directors should:

(a)make an unreserved statement in the notes to those entity financial statements that those financial statements have been prepared in accordance with International Financial Reporting Standards; and
(b)ensure that those financial statements contain the additional information required by CA 2014 other than that required by Schedule 3.

Preparation of group financial statements

There is no change in the requirements to prepare "Companies Act group financial statements" and "IFRS group financial statements", except with regard to the exemption from consolidation on the basis of size of group, as mentioned below.

Companies Act group financial statements should comply with:

(a)the provisions of Schedule 4 as to the accounting principles to be applied, the form and content of the consolidated balance sheet and consolidated profit and loss account and the additional information to be provided by way of notes to the group financial statements;
(b)applicable accounting standards; and
(c)the other provisions of CA 2014.

In the case of IFRS group financial statements, the directors should:

(a)make an unreserved statement in the notes to those group financial statements that those financial statements have been prepared in accordance with International Financial Reporting Standards; and
(b)ensure that those financial statements contain the additional information required by CA 2014 other than that required by Schedules 3 and 4 of CA 2014.

Section 297 introduces new thresholds in respect of the exemption from consolidation on the basis of the size of group.

In respect of a particular financial year, a holding company is exempt from the requirement to prepare group financial statements if, at the financial year end date of the holding company for that financial year, and for the financial year of that company immediately preceding that financial year, the holding company and all of its subsidiary undertakings taken as a whole satisfy at least two of the following three qualifying conditions:
(a)the balance sheet total of the holding company and its subsidiary undertakings taken as a whole does not exceed €10 million (increased from €7.6 million),
(b)the amount of the turnover of the holding company and its subsidiary undertakings taken as a whole does not exceed €20 million (increased from €15.2 million), and
(c)the average number of persons employed by the holding company and its subsidiary undertakings taken as a whole does not exceed 250.

Approval and signing of the statutory financial statements by board of directors

Statutory financial statements are required to be approved by the board of directors and signed on their behalf by two directors, where there are two or more directors. Where the company has one director, statutory financial statements should be approved and signed by the sole director (section 324(1) and (2)).

The signature or signatures evidencing approval of the financial statements by the board are required to be inserted on the face of the entity balance sheet and any group balance sheet. There is no requirement to sign the profit and loss account.

Every copy of every balance sheet which is laid before the members in general meeting or which is otherwise circulated, published or issued is required to state the names of the persons who signed the balance sheet on behalf of the board of directors. Stating the names of the persons who signed the balance sheet on behalf of directors is a new requirement introduced by CA 2014.

Disclosures required in the notes to the financial statements

Sections 305 to 323 require specific disclosures in the notes to the financial statements (both Companies Act financial statements and IFRS financial statements). These include:

- Directors' remuneration and transactions – sections 305 to 313;
- Information on related undertakings - section 314;
    - Section 315 provides an exemption to certain undertakings from the requirement of section 314;
    - Section 316 provides that, where such a disclosure would be of excessive length, the note may be restricted to the undertakings whose assets, liabilities, financial position or profit or loss in the opinion of the directors principally affected the amounts shown in the company's statutory financial statements and undertakings excluded from the consolidation, and details of the other undertakings may instead be annexed to the annual return;
- Particulars of staff – section 317;
- Details of authorised share capital, allotted share capital and movements – section 318;
- Financial assistance for purchase of own shares – section 319;
- Holding of own shares or shares in holding undertaking – section 320;
- Disclosure of accounting policies – section 321;
- Disclosure of remuneration for audit, audit-related and non-audit work – section 322;
- Information on arrangements not included in balance sheet – section 323.

Additional notes

Credit Institutions and Insurance Undertakings continue to have regard to the form and content requirements of the European Communities (Credit Institutions: Accounts) Regulations, 1992 (S.I. No. 294 of 1992) and the European Communities (Insurance Undertakings: Accounts) Regulations, 1996 (S.I. No. 23 of 1996) respectively, until such time as these regulations are replaced with regulations conforming to CA 2014.

The European Union (International Financial Reporting Standards) Regulations 2012 - S.I. No. 510 of 2012 - is not being repealed and will still be effective in terms of governing how companies may move from 'IFRS financial statements' to 'Companies Act financial statements'. A company which has decided to adopt the provisions of Financial Reporting Standard 101 *Reduced Disclosure Framework*, rather than continue to prepare IFRS entity financial statements, will revert to 'Companies Act entity financial statements' under the provisions of S.I. No. 510 of 2012.

5.DIRECTORS' REPORTS

For the majority of companies under CA 2014 there will be little change in relation to the content of the directors' report that is required to accompany the statutory financial statements. A holding company is required to prepare a group directors' report. Where the group and entity financial statements are published together, it is enough to prepare a group directors' report provided that information which is applicable to the holding company only is also included.

Unless otherwise noted, the changes below will apply to all directors' reports approved after the commencement date of 1 June 2015. A summary of the key changes is attached as Appendix 1.

ALL COMPANIES

Section 325(1) sets out the key matters that must be included in all directors' reports under the following headings:

(a)General matters (section 326);
(b)Business review (section 327);
(c)Acquisition or disposal of own shares (section 328);
(d)Directors' interests in shares or debentures (section 329);
(e)Statement on relevant audit information (section 330).

General matters

Section 326 contains a new requirement to disclose the names of the persons who at any time during the financial year were directors of a company. **This requirement is effective only for financial years beginning on or after 1 June 2015.**

Previous Companies Acts[4] included a requirement that the directors make a statement in the directors' report of the measures taken to secure compliance with the requirements in those Acts with regard to keeping proper books of accounts, and to state the exact location of those books. As discussed in section 2 of this document, sections 281 to 285 contain requirements on companies to keep adequate accounting records and section 326(1)(c) requires a similar statement to be made in the directors' report as to the measures taken by to secure compliance with the CA 2014 requirements with regard to the keeping of accounting records and the exact location of those records. By virtue of section 326(4), these measures include those taken to ensure that the accounting records maintained allow for the preparation of the group financial statements.

The other requirements of this section regarding principal activities, accounting records, interim and final dividends, events after the year end, R&D activities, existence of branches, political donations and financial risk management activities including hedging were all required under the previous Companies Acts. Small and medium companies, under section 351, are exempt from providing information on financial risk management activities.

Terminology has changed but there is no substantive change for a limited company. All the requirements of CA 2014 also apply to unlimited companies whose directors' reports in the past may not have addressed all these items.

Business review

The requirements of section 327 are effectively the same as always applied to limited companies. However, while unlimited companies were required by previous Companies Acts to provide a report on the 'state of affairs' or financial position of the company and changes in it, it was not as

clearly specified that the directors' report needed to deal with the development and performance of the company during the financial year.

Small and medium companies continue to be exempt from disclosure of key performance indicators (section 351).

Acquisition or disposal of own shares

The requirements of section 328 are similar to the requirements under previous Companies Acts for a limited company with share capital, with the exception that the maximum number of shares held at any time during the financial year is no longer required to be disclosed. However, an unlimited company with share capital, which was not required under previous Companies Acts to disclose information on own shares held by it or any subsidiary, is now required to also comply with this section.

Companies without share capital (CLG and PULC) are exempt from this section.

Directors' and secretaries' interests in shares or debentures

The requirements of section 329 in relation to disclosure, in the directors' report, of the interests of the directors and secretary in shares and debentures, are in some respects less onerous than those which applied under previous Companies Acts.

The interests of the directors and secretary, in the shares or debentures of the company and other group undertakings, that are required to be included in the directors' report, are those interests that are required to be recorded in the company's register of such interests. The company is required to record in that register (i) changes in 'disclosable interests' that are notified by a director or secretary to the company; (ii) share options over its own shares that the company grants to a director or secretary; and (iii) shares acquired by a director or secretary through the exercise of the share options referred to in (ii).

A 'disclosable interest' in shares is an interest in shares or share options of any group company provided the interest is in voting shares and comprises more than 1% of the nominal value of a class of share.

Consequently, certain interests of the directors and secretary that represent not more than 1% of the issued share capital do not have to be disclosed in the directors' report.

A company without share capital will apply this section by interpreting the meaning of shares in accordance with section 275(3).

Chartered Accountants Ireland considers that the requirements of CA 2014 in relation to the recording of the interests of directors and secretaries in shares in the company's register, and in the directors' report, are quite complex and may be subject to varying interpretation, and has brought its concern to the attention of the Department of Jobs, Enterprise and Innovation ('DJEI').

Statement on relevant audit information

This is a new requirement introduced by section 330 of CA 2014. The Companies Act 2014 (Commencement) Order 2015 - S.I. 169 of 2015 - has delayed the commencement of this requirement **such that it will become mandatory for financial years beginning on or after 1 June 2015.**

The obligation on directors to provide all necessary explanations and information to the auditor continues[5]. However, section 330 now requires that they have to explicitly state in the directors' report that they have taken steps to inform themselves of all relevant audit information and have established that the auditor is aware of all such information.

Secretarial

Every copy of the directors' report that is circulated or published or laid before the members must contain the names of the directors that signed on behalf of the board.

CERTAIN COMPANIES

There are a number of additional headings that are required in a directors' report of certain companies.

Audit Committees

Companies subject to the requirements of European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 – S.I. No. 220 of 2010 – continue to be subject to those requirement after 1 June 2015, as they pertain to audit committees. Section 167 now applies additionally to other companies that meet certain size criteria in the current and prior year. The criteria are that the company meets both of the following:

(a)Turnover for the year exceeds €50 million
(b)Balance sheet total assets exceeds €25 million

The section also applies to a holding company where, on a consolidated basis, the group meets the above criteria in the current and prior year (irrespective of whether group financial statements are prepared).

The requirement is for the board of directors to either establish an audit committee that meets the requirements of section 167 (briefly, an audit committee with certain specified responsibilities and at least one independent director with competence in accounting or auditing) or decide not to establish one.

The directors must state in the directors' report whether they have established such a committee or, in the event they have not, the reasons for that decision.

SI 169 of 2015 commences this section for financial years beginning on or after 1 June 2015.

Directors' compliance statement

Section 225 applies only to a company that meets certain size criteria in the current financial year. The criteria are that the company meets both of the following:

(a)Turnover for the year exceeds €25 million
(b)Balance sheet total assets exceeds €12 million

Where a group directors' report is prepared, it must include the relevant disclosures for the holding company, if the holding company meets the size criteria.

The board of directors is required to include a statement in the directors' report acknowledging that they are responsible for securing compliance with relevant obligations of the company. Additionally, they are required to make a statement:

(a)Confirming that they have drawn up a statement setting out the company's policies in relation to complying with relevant obligations,
(b)Confirming that they have put in place appropriate arrangements or structures that are designed to ensure material compliance with the company's relevant obligations, and
(c)Confirming they have carried out a review during the financial year of those arrangements and structures.

If the directors cannot confirm items (a) to (c) above they must explain why not.

For this section, relevant obligations are:

(a)Obligations under CA 2014, which if not complied with would result in a category 1 or 2 offence or a serious Market Abuse or Prospectus offence,
(b)Obligations under Irish tax law.

Irish tax law is widely defined and in addition to corporation tax it includes statutes governing Customs, excise duties, Capital Gains tax, Value-Added tax, etc.

SI 169 of 2015 commences this section for financial years beginning on or after 1 June 2015.

Corporate governance statement

The requirements in relation to the corporate governance statement are exactly as they were under previous Companies Acts and they only apply where the company has debt or equity admitted to trading on a regulated market in an EEA state.

However, PUCs and PULCs have also been brought into scope.

Disclosure notice under Central Bank Act 1942 (as amended)

The requirement to include such Notices is unchanged.

6.‘COMPANIES ACT FINANCIAL STATEMENTS’ FORMATS AND NOTE DISCLOSURES

CA 2014 has extended the scope of the requirement to comply with the formats and related notes beyond limited liability companies, to include: a company limited by guarantee (‘CLG’), a private unlimited companies (‘PUC’), a public unlimited companies (‘PUC’) and public unlimited company that does not have share capital (‘PULC’).

There are a number of relatively minor amendments relating to financial statements formats and various other notes to the financial statements. Certain of these are set out below, with a more complete summary attached as Appendix 2.

Disclosure relating to the use of applicable accounting standards

There is a new requirement in CA 2014 to disclose within entity and group Companies Act financial statements that they have been prepared in accordance with applicable accounting standards and to identify the standards in question. Examples of the specific standards include (i) standards issued by the Financial Reporting Council (FRC), such as Financial Reporting Standards (FRS) 101 and 102 or (ii) IFRS (see sections 291, 292 and 295).

Section 275 defines ‘accounting standards’ as statements of accounting standards and any written interpretation of those standards issued by a body or bodies prescribed under section 943(1)(h). Section 943(1)(h) provides for the Minister to make regulations “prescribing for the purposes of the definition of “accounting standards” in section 275(1) one or more bodies that issue statements of accounting standards”.

At the date of publication of this document, the Minister has not made regulations in this regard. Chartered Accountants Ireland is expecting a statutory instrument prescribing the Financial Reporting Council (FRC), for the purposes of section 275(1), to be published by DJEI soon. However, in the current absence of such regulations it is unclear how section 275(1) and section 291(7) (requiring companies to state whether financial statements have been prepared in accordance with applicable accounting standards and to identify these) can operate. Chartered Accountants Ireland considers that a pragmatic approach in the interim is for directors to continue to state that the financial statements have been prepared in accordance with Irish GAAP, i.e. applicable accounting standards issued by the Financial Reporting Council and promulgated in Ireland by the Institute of Chartered Accountants in Ireland, and Irish law.

This document will be updated when the statutory instrument is published.

Profit and Loss Account: formats and notes

Definition of Turnover

Turnover, in relation to a company, was defined under previous Companies Acts as the amount of revenue derived from the provision of goods and services falling within the company’s ordinary activities, after the deduction of trade discounts, VAT and any other taxes based on the amounts so derived. CA 2014 has expanded this definition to clarify that for a company “whose ordinary activities include the making or holding of investments, [turnover also] includes the gross revenue derived from such activities” (section 275). This revision may have relevance for certain companies as regards the presentation of items within their profit and loss accounts (‘P&L A/Cs’). In addition, it may impact the circumstances in which these companies can qualify for various exemptions that are in part dependent on the amount of turnover, e.g. group size for consolidation relief, qualification of a company as small or medium when seeking to prepare abridged financial statements for filing purposes, or qualification for an audit exemption.

Staff costs information

CA 2014 has a new requirement to disclose, irrespective of the P&L A/C format used, ‘other compensation costs’ of employees, specified by type (section 317(2)). This is in addition to the existing analysis required of wages and salaries, social insurance costs incurred by the company and other retirement benefits costs incurred. Therefore, this additional disclosure may, as an example, include certain termination costs and share-based payment compensation. Also, in relation to the aggregate amount of staff costs incurred for the period, any amount capitalised into assets is now separately disclosable (section 317(3)). Finally, the figure for average number of employees during the period is now determined on a monthly (instead of weekly) basis (section 317(4) and (5)).

More generally, in the case of a company preparing consolidated financial statements, it would appear that disclosure of staff particulars (remuneration and numbers as set out in section 317)

will need to be included in relation to both the group and the holding company. This is because the exemption from publication of the holding company's entity profit and loss account and certain disclosures, set out in section 304(2), does not extend to provide a relief from section 317's holding company disclosures.

It is also worth noting that these new staff costs disclosure requirements apply in IFRS financial statements as well as Companies Acts financial statements.

Balance Sheet: formats and notes

Holding Undertaking Interests in Subsidiary Undertakings and Other Undertakings of Substantial Interest

In relation to these interests, there is a general requirement to disclose the aggregate amount of the net assets and the profit or loss of each of these undertakings. However, there are various circumstances in which these disclosures are not required. One of the reliefs under the previous Companies Acts was dependent in part on the holding undertaking's interest in the 'qualifying capital interest' (QCI) of the investee being included in or in a note to the group financial statements by way of the equity method of accounting. The QCI of a company with share capital represented its total allotted share capital. The revised requirements replaces the QCI term with 'equity shares' which only includes shares that are not restricted as regards to dividends or rights on winding up

Creditors: Terms and Conditions relating to Debts

CA 2014 requires the disclosure of the terms of payment/repayment and the rate of any interest payable on debts whether or not they are payable by instalment. Where the number of debt instruments is such that, in the opinion of the directors, it would result in a statement of excessive length, the requirement is instead to give a general indication of the terms of payment/repayment and the rates of any interest payable. This disclosure applies to amounts falling due within and after one year (Schedule 3, paragraph 58(2) and (3)).

CA 2014 has a new requirement to disclose the terms and conditions under which convertible loans may be converted into share capital of the company (Schedule 3, Notes on the Balance Sheet Formats, note (4)).

Creditors: Accruals and deferred income

Due to the different nature of accruals and deferred income, CA 2014 requires separate presentation or disclosure of these two items, both in relation to the amounts falling due within and after one year.

Share capital

Called up share capital is now split in the balance sheet formats between amounts presented as liabilities (divided between amounts falling due within and after one year) and amounts presented as equity. This is in line with the requirements of applicable accounting standards. Various other disclosures relating to share capital also require analysis between those presented in liabilities and equity.

Prior year comparatives

Paragraph 5 of Schedule 3 continues the general requirement contained in previous Companies Acts[6] to provide "in respect of every item shown in the balance sheet, or profit and loss account, or notes thereto, of a company, the corresponding amount for the financial year immediately preceding that to which the balance sheet or profit and loss account relates". However, whilst previous Companies Acts[7] gave an exemption to companies from the general requirement to provide corresponding amounts in the case of the fixed assets and reserves and provisions notes, this specific exemption has not been included in CA 2014.

Chartered Accountants Ireland has informed DJEI of our concern that a similar exemption has not been incorporated in CA 2014, with a view to having it reinstated at the earliest possible opportunity. Until such time as an appropriate amendment is introduced, where the corresponding amounts are not included in the notes to the statutory financial statements, the statutory auditor considers the impact on the statutory audit opinion.

7.DISCLOSURE OF DIRECTORS' REMUNERATION

There has been some expansion of what falls into the scope of disclosures in this area as follows:

•The inclusion in section 222 of a new term 'de-facto' director, with the directors' remuneration disclosures now including such a director within its scope. A 'de-facto' director is defined as a person who occupies the position of director of a company but who has not been formally appointed. However, a person is not a de-facto director by reason only of the fact that he/she gives advice in a professional capacity.

•The requirement to include remuneration paid or payable to a person 'connected' with a director. Connected persons are defined in section 220 and include a director's spouse, civil partner, parent, sibling or child including in some cases a child of a civil partner. It also extends to persons acting as a trustee of a trust, the principal beneficiaries of which are those noted above as well as a body corporate controlled by the director. **[Note that this item is required only in relation to financial years beginning on or after 1 June 2015.]**

•Finally, section 305(13)(b) clarifies that amounts paid by a holding undertaking in respect of directors' remuneration of a company forms part of the disclosures.

The definition of directors' 'emoluments' has been expanded in section 305(4) to now include all benefits-in-kind whether or not they are subject to tax. However, there is no longer a requirement to distinguish between emoluments for services as director and other emoluments. Emoluments for all services provided as director and otherwise in connection with the management of the affairs of the company or any of its subsidiaries, now collectively referred to as 'qualifying services', are disclosed on a combined basis (section 305(1)(a)). Also, certain items that previously were part of the 'emoluments' disclosure are now excluded but are instead subject to separate disclosures. These items are as follows:

•The aggregate amount of gains made by directors on the exercise of certain share options during the financial year (i.e. relates to options over quoted shares and shares that are redeemable in cash) (section 305(1)(b)) **[Note that this item is required only in relation to financial years beginning on or after 1 June 2015.];**

•The aggregate amount of the money or value of other assets, including shares but excluding share options, paid to or receivable by the directors under long term incentive schemes in respect of qualifying services (section 305(1)(c)).;

•There is a new requirement to analyse the aggregate amount of any contributions paid or payable during the year to a retirement benefit scheme in respect of qualifying services of directors between defined benefit and defined contribution schemes, with this disclosure also noting in each case the number of directors to whom retirement benefits are accruing (section 305(1)(d)). Also note that the analysis of aggregate contributions paid or payable in the year to a retirement benefit scheme between benefits for services (i) as director and the company and its subsidiaries and (ii) other services need only be given in relation to past directors (section 305(10)).

8.DIRECTORS' AND OFFICERS' TRANSACTIONS

Scope related

This section looks at the changes in the requirements arising in relation to transactions with (i) directors of all types company and (ii) connected persons of directors of a company that is not a credit institution.

It is worth noting that for the purposes of these disclosures, a 'director' now includes a de-facto director, as defined above. While a shadow director (being a person with whose directions or instructions the directors of a company are accustomed to act - section 221(1)) was always in scope of these disclosures, CA 2014 clarifies however that a body corporate is not to be regarded as a shadow director of a company or any of its subsidiaries (section 221(2)).

Before looking at the details of the revisions, an important point of interest is that the relevant disclosures do not apply in relation to an individual director (or persons connected to him/her)

or any other officer of a company or of its holding undertaking, if the aggregate value of all transactions, agreements and arrangements made by the company or any of its subsidiaries, did not for that individual director (or connected persons) or officer (that is not a director) at any time during the year exceed €7,500. This threshold has increased under CA 2014 from its prior level of €3,174.35 (section 308(3) and (5))

Loans, quasi-loans or credit transactions

For loans, quasi-loans or credit transactions made to any director (or a person connected to him/her) of the company or of its holding undertaking, by a company or any of its subsidiaries, the required reconciliation of movements between the opening and closing values at the beginning and end of the financial year is more detailed than before, with the aggregate values being required for such movements to the extent possible. The particulars required by section 307(3) for both the current and prior year are as follows:

a)the name of the person for whom the arrangements were made, and where that person is or was connected with a director of the company, or of its holding undertaking, the name of the director*;
b)the value of the arrangements at the beginning and end of the financial year;
c)advances made under the arrangements during the financial year;
d)amounts repaid under the arrangements during the financial year;
e)the amounts of any allowance made during the financial year in respect of any failure or anticipated failure by the borrower to repay the whole or part of the outstanding amount;
f)the maximum amount outstanding under the arrangements during the financial year;
g)an indication of the interest rate*, and
h)the arrangements' other main conditions*.

*The aggregate value disclosures not applicable.

While the line items above are more detailed than those explicitly stated under previous Companies Acts, the detail may have previously been provided by virtue of the fact that the values of the arrangements at the beginning and end of the financial year were required, as well as their principal terms.

There is now also a requirement to disclose the value of the arrangements at the beginning and end of the financial year, expressed as a percentage of net assets of the company at each of those dates, respectively; previously the disclosure was only required at the end of the financial year (section 307(8)(c)).

Guarantees and security provided to directors

For guarantees entered into or security provided by the company or any of its subsidiary undertakings, in respect of loan, quasi-loan or credit transactions made to the directors for both the current and preceding financial year, there is a new requirement to provide the aggregate values, to the extent possible. The particulars required by section 307(5) are as follows:

a)the name of the person for whom the arrangements were made, and where that person is or was connected with a director of the company, or of its holding undertaking, the name of the director;
b)the maximum liability that may be incurred;
c)any amount paid or liability incurred in fulfilling the guarantee or on foot of the provision of the security; and
d)the arrangements' main terms*.

*The aggregate value disclosure not applicable.

Additional disclosure requirements – Aggregate value of arrangements exceeds 10% of net assets

Where at any time during the financial year, the aggregate value of the 'maximum amount outstanding' under loan, quasi-loan and credit arrangements, along with guarantees entered into or security provided in relation to such arrangements, exceeds 10% of the net assets of the company, the aggregate amount and the percentage of net assets that the total represented, should be stated. Previous Companies Acts stated that the percentage of net assets was to be assessed against the net assets at the end of the previous financial year. Assessment is now required using the net assets at the time of the transaction, and subsequently. This means that an

assessment is required when a transaction is entered into and, if a breach of the 10% rule occurs at any time during the financial year, it would become disclosable (section 307(10)).

Other directors' transactions and arrangements in which directors have a material interest

Disclosure is not required in relation to other transactions or arrangements (not already captured under the arrangements outlined above) made by the company or any of its subsidiary undertakings, with each individual director (or persons connected to him/her) of the company or of its holding undertaking, where the value of each transaction or arrangement did not at any time in the financial year exceed in aggregate €5,000 (increased from €1,269.74) or, if more, did not exceed the lesser of €15,000 (increased from €6,348.69) and 1% of the value of the company's net assets. Previous Companies Acts stated that the percentage of net assets was to be assessed against the net assets at the end of the previous financial year. Assessment is now required using the net assets at the time of the transaction, and subsequently. This means that an assessment is required when a transaction is entered into and, if a breach of the 1% rule (or other limits) occurs at any time during the financial year, the transaction would become disclosable (section 309(6))

Officers' (not being directors) transactions – loans, quasi-loans, credit transactions, guarantees (to which a credit institution is not a party)

Additional disclosure requirements also arise in the case of loans, quasi-loans and credit transactions to officers (not being directors) of a company or of its holding undertaking, by the company or any of its subsidiary undertakings. The line items for disclosure are the same as those required for the directors' movements reconciliation in (b)-(f) above. However, that information need only given on an aggregated basis for all officers (not individually), noting the number of officers for whom such arrangements were made (section 308(7)). In addition, the aggregate value of the arrangements at the beginning and end of the financial year, expressed as a percentage of the net assets of the company, is required (section 307(8)).

Previously, only the aggregate value of the arrangements at the end of the financial year was required to be disclosed, along with the number of officers (not being directors) for whom such arrangements were made.

9.ABRIDGED FINANCIAL STATEMENTS

As in previous Companies Acts, CA 2014 provides an exemption for a small or medium company from annexing its statutory financial statements to its annual return, and allows such a company to prepare abridged financial statements to annex to its annual return.

As in previous Companies Acts, there is no abridgement relief available where a holding company prepares consolidated financial statements.

Abridged financial statements are required to be approved by the board of directors and signed on their behalf by the single director, or if there are two or more directors, by two directors on behalf of the board.

Qualification as a small or medium company – Section 350

Section 350 sets out that a company qualifies as a small or medium company if it fulfils at least two of the three qualifying conditions in the table below;

- In relation to its first financial year, or
- In relation to its current financial year and the preceding financial year, or
- In relation to its current financial year and it qualified as small/medium in the preceding financial year, or
- In relation to the preceding financial year and it qualified as small/medium in the preceding financial year.

Table 2 – Qualifying conditions for small and medium companies

3 Qualifying Conditions	Small	Medium
Amount of turnover	€8.8 million*	€20 million*
Balance sheet total (total assets)	€4.4 million	€10 million

Average number of employees	50	250
* Proportionately adjust where the financial year is not a year		

The qualifying conditions for a small company are the same as under previous Companies Acts. The turnover and balance sheet total qualifying conditions for a medium company have increased from previous Companies Acts.

The scope of companies that can be considered small or medium under CA 2014 is wider than under previous Companies Acts. The following types of company can be considered small or medium, and therefore entitled to annex abridged financial statements to its annual return, if it (i) satisfies the qualifying conditions above, (ii) is not a prohibited company (see Appendix 3) and (iii) is not a holding company preparing group financial statements:

- •Company limited by shares ('LTD');
- •Company limited by guarantee ('CLG');
- •Designated activity company ('DAC');
- •A designated unlimited company which is required to annex financial statements to its annual return ('ULC').

Abridged financial statements

SMALL COMPANIES

A small company can avail of an exemption from filing:

(a)The statutory financial statements of the company;
(b)The directors' report; and
(c)The statutory auditor's report on those financial statements.

In place of the above a small company annexes the following information to its annual return:

(a)Abridged financial statements – explained below;
(b)The information required to be included in the directors' report in relation to directors' interests in shares and debentures; and
(c)A special statutory auditor's report.

A small company's abridged financial statements are extracted from its statutory financial statements and include the balance sheet from the statutory financial statements and certain note disclosures. The table below identifies the notes to the statutory financial statements that are required to be included in a small company's abridged financial statements.

Table 3 – Small company abridged financial statements - notes

	Notes to be included in small company abridged financial statements	**IFRS financial statements – included in abridged financial statements?**	**Companies Act financial statements – included in abridged financial statements?**
1	Directors' remuneration	Yes	Yes
2	Directors' loans, quasi-loans, credit transactions and guarantees	Yes	Yes
3	Other arrangements and transactions in which the directors have a material interest	Yes	Yes
4	Information on related undertakings	Yes	Yes
5	Particulars of staff	Yes	Yes
6	Authorised share capital, allotted share capital and movements	Yes	Yes
7	Financial assistance for the purchase of own shares	Yes	Yes

8	Holdings of own shares or holdings of shares in the holding undertaking	Yes	Yes
9	Accounting policies	Yes	Yes
10	Maturity of non-current liabilities and security given in respect of those liabilities	Yes	Items 14, 15, 16 address for Companies Act financial statements
11	Extent and nature of derivatives not accounted for at fair value and if fair value can be determined that fair value	N/a – derivatives accounted for under IFRS	Yes
12	Amount of assets included at an amount in excess of their fair value, their fair value and the reasons for not making a provision for diminution in value	No	Yes
13	Provision for deferred taxation shown separately from any provision for other taxation	N/A – deferred tax presented separately on the face of the balance sheet under IFRS	Yes
14	Debts included in creditors which are payable or repayable otherwise than by instalments and fall due for payment or repayment after 5 years and the amount of instalments which fall due for payment	Item 10 for IFRS financial statements	Yes
15	Terms of payment or repayment and the rate of interest payable in respect of debts at 14 above	Item 10 for IFRS financial statements	Yes
16	Aggregate amount of debts for which any security has been given and an indication of the nature of security given	Item 10 for IFRS financial statements	Yes
17	Basis on which sums originally denominated in foreign currencies have been translated into the functional currency	N/A – included in IFRS accounting policies	Yes
18	If not shown on the face of the balance sheet total debtors falling due within one year, total debtors falling due after one year, total creditors falling due within one year and total creditors falling due after one year.	N/A – debtors presented as current or non-current in IFRS financial statements	Yes

The following statement should be included on the face of the balance sheet that forms part of a small company's abridged financial statements – the signature or signatures of the signing director or signing directors should be inserted on that balance sheet immediately after this statement;

> *"In preparing these abridged financial statements the directors [or director] have [has] relied on the exemption contained in section 352 of the Companies Act 2014 on the ground that the company is entitled to the benefit of that exemption as a small*

company. These abridged financial statements have been properly prepared in accordance with section 353 of the Companies Act 2014."

The abridged financial statements of a small company will not be significantly different to small company abridged financial statements prepared under previous Companies Acts. For some companies, there will be changes in the note disclosures. CA 2014 is now explicit that disclosure of directors' remuneration is required to be included in the abridged financial statements of a small company.

MEDIUM COMPANIES

A medium company can avail of an exemption from filing:

a)The statutory financial statements of the company; and
b)The statutory auditor's report on those financial statements.

In place of the above, the medium company annexes the following information to its annual return:

a)Abridged financial statements – explained below;
b)The statutory directors' report; and
c)A special statutory auditor's report.

The abridged financial statements of a medium company should be the same as the statutory financial statements, with the following exceptions in relation to the profit and loss account and notes;

- Where the statutory financial statements of the medium company are IFRS financial statements the company's revenue and certain expenses may be combined under one heading "gross profit or loss"[8] on the face of the income statement and in the related notes.
- Where the statutory financial statements of the medium company are Companies Act (e.g. FRS 101, FRS 102, FRSSE) financial statements the company's turnover and certain expenses may be combined under one heading "gross profit or loss"[9] on the face of the profit and loss account and in the related notes.

The balance sheet of a medium company cannot be abridged. The following statement should be included on the face of the balance sheet that forms part of the abridged financial statements of a medium company – the signature or signatures of the signing director or signing directors should be inserted on that balance sheet immediately after this statement:

"In preparing these abridged financial statements the directors [or director] have [has] relied on the exemption contained in section 352 of the Companies Act 2014 on the ground that the company is entitled to the benefit of that exemption as a medium company. These abridged financial statements have been properly prepared in accordance with section 354 of the Companies Act 2014."

The abridged financial statements of a medium company will not be significantly different to medium company abridged financial statements prepared under previous Companies Acts. For some companies there will be changes in the note disclosures.

10.ANNUAL RETURN AND ANNUAL RETURN DATE

The CA 2014 requirements in connection with the annual return and annual return date are largely a re-enactment of the requirements in previous Companies Acts. However there are some differences, which have been highlighted below.

Obligation to make annual return

As with the previous Companies Acts, the CA 2014 requires, in section 343, that every company should deliver to the Registrar an annual return in not later than 28 days after the annual return date of the company. Every annual return of a company is required to be made up to a date that is not later than its annual return date.

Annual return date

A company incorporated before 1 June 2015 will continue to adhere to its existing annual return date (as determined in accordance with the prior Companies Acts) and this date will be deemed to continue for following years. Similar to the previous Companies Acts, the first annual return date of a newly incorporated company (ie incorporated on or after 1 June 2015) will be the date six months after the date of its incorporation, and thereafter the annual return date of the company, in each subsequent year, is the anniversary of that first annual return date.

Annual Return Filing Extensions

From 1 June 2015, applications for filing extensions can only be made through the District Court under section 343(5). Where a company obtains an extension from the District Court, it is important that such extension order is filed with the CRO within 28 days of the Order being made. Once the Order has been filed with the CRO, the annual return filed will be deemed by the CRO to have been received on time (once filed within the extra time specified by the District Court). Consequentially, late filing penalties / loss of audit exemption will not apply to that annual return.

It is important to note that section 343(5) will not apply to an annual return which has already been delivered to the CRO prior to 1 June 2015.

Alteration of annual return date

CA 2014's requirements on the alteration of an annual return date remain the same as with previous Companies Acts, i.e. where a company's annual return is made up in any year to a date earlier than its annual return date, the company's annual return date will be each anniversary of that date to which that annual return is made up unless the company:

a)elects in the annual return to retain its existing annual return date: or

b)establishes a new annual return date by annexing a notification (in place of statutory financial statements) in the prescribed form nominating the new annual return date. That notification must be delivered not later than 28 days after its existing annual return date and that new annual return date must be a date falling within the period of six months following the existing annual return date (section 346(1), (2) and (3)).

Where a company has established a new annual return date, it is not permitted to change its annual return date again, within the following five years. In addition, the Registrar may deem it desirable for a holding company or a holding company's subsidiary undertaking to extend its annual return date so that the subsidiary undertaking's annual return date may correspond with that of the holding company. The Registrar may, on the application or with the consent of the directors of the company or undertaking whose annual return date is to be extended, direct that an extension is to be permitted in the case of that company or undertaking (section 346(4) and (5)).

Documents to be annexed to annual return

Similar to previous Companies Acts, the following documents, that have been, or are to be, laid before the relevant general meeting, are required to be annexed to the annual return:

a)the statutory financial statements of the company;

b)the directors' report, including any group directors' report; and

c)the statutory auditor's report on those financial statements and that directors' report (section 347(1)).

Exemption from Filing Financial Statements with the Registrar

In certain instances companies may avail of an exemption from filing financial statements with their annual return. These are limited in nature and are in respect of:

A non-designated Unlimited Company that has an exemption from filing financial statements (section 1274)

Where an unlimited company, being an unlimited company of which, all its members are neither limited by share nor guarantee (a non-designated unlimited company) may in lieu of filling financial statements file;

•a separate report of the statutory auditor confirming that the statutory auditor has audited the financial statements of the company for the relevant year and including the statutory auditor's report on the statutory financial statements, and;

•a certificate signed by a director and the secretary stating that the copy of the separate report prepared by the statutory auditor is a true copy of the original.

A designated activity company ('DAC') (section 996) & A companies limited by guarantee ('CLG') (section 1220)

Where a DAC or a CLG is formed for charitable purposes, it may be exempt from filing financial statements with the Registrar, where it has obtained an order made by the relevant authority (the Charities Regulatory Authority (CRA)) to this effect. In such instances it must (unless it avails of audit exemption) file;

•a separate report of the statutory auditor confirming that the statutory auditor has audited the financial statements of the company for the relevant year and including the statutory auditor's report on the statutory financial statements, and;
•a certificate signed by a director and the secretary stating that the copy of the separate report prepared by the statutory auditor is a true copy of the original.

A subsidiary undertaking exempted from annexing its statutory financial statements to the annual return (section 357)

The exemption under previous Companies Acts for a subsidiary company from annexing its financial statements to the annual return, where an irrevocable guarantee by its holding undertaking is in place with respect to all amounts shown as liabilities in the statutory financial statements of the company in respect of that financial year, continues to be available under section 357.

Qualification as a Small or Medium company

Please refer to the discussion in section 9 of this document.

11.PUBLICATION

Chapter 12 of Part 6 deals with the requirements relating to the publication of financial statements.

Circulation (section 338)

The requirements regarding the circulation of the statutory financial statements, the directors' report and the statutory auditor's report are similar as those contained in previous Companies Acts. The documents continue to be required to be sent to every member of the company, every holder of debentures of the company and all persons other than members or holders of debentures who are entitled to receive the documents. Delivery of those documents continues to be required not less than 21 days before the meeting at which copies of the document are to be laid before the members.

Section 338(4) does, however, state that the electronic communication of copies of those documents fulfils the circulation requirement. Section 338(5) also provides for the ability of a company to circulate the documents via its website (unless the company's constitution provides otherwise), subject to agreement with the individuals concerned and to notification being sent to the individuals concerned as to the location of the documents on the website.

Right to demand copies of financial statements and reports (section 339)

The requirements in relation to a member's right to demand copies of financial statements and reports are also similar to the requirements under previous Companies Acts. Section 339(7) provides that any obligation to furnish documents may be satisfied using electronic communication, provided that the company's constitution does not dictate otherwise.

Requirements in relation to publication of financial statements (section 340)

Where a company is required to prepare group financial statements for a financial year, section 340(2) prohibits the publishing by the company of entity financial statements for that year unless they are combined with the group financial statements and published together as the statutory financial statements of the company. Under previous Companies Acts, where a company published its "full individual accounts for the year" it was required to indicate if group accounts had been prepared and, if so, where those group accounts could be obtained[10].

Section 340(4) requires a company publishing 'non-statutory financial statements' (including abbreviated accounts) to make a statement similar to the statement required in previous Companies Acts, except that the company is now also required to include in that statement "the reason for the preparation of the non-statutory financial statements".

Financial statements and reports to be laid before the company in general meeting (section 341)

The requirements under CA 2014 with regard to the documents to be laid before the company in general meeting, and the nine month period after the year-end in which those document may be laid, are similar to those in previous Companies Acts. Section 341(4), however, provides that where a company has availed of section 175(3) to dispense with the holding of an annual general

meeting, then the requirement to lay the financial statements is read to mean that the documents are provided to the members, within the required period of time, for the purpose of their signing the written resolution referred to in section 175(3).

The requirements of sections 338 to 341 are applied to a DAC, a PLC, a CLG (subject to a limitation of circulation under section 338 to only those members and debenture holders entitled to receive notices of general meetings of the company), a ULC, a PUC, and a PULC (subject to the same limitation of circulation as for a CLG) by virtue of the provisions of the respective Part in CA 2014 governing those types of company.

Summary Financial Statements and circulation by a PLC to members in lieu of full financial statements (section 1119)

In accordance with section 1119, the directors of a PLC may prepare in respect of each financial year a summary financial statement for that financial year derived from the statutory financial statements and the directors' report for that period, giving a fair and accurate summary account of the PLC's financial development during that financial year and financial position at the end of that year.

The summary financial statement should be approved by the board of directors and signed by them or, if there are more than two directors, signed on their behalf by two of the directors.

Section 1119(5) states that the summary financial statement (along with the statutory auditor's report under section 391, where that report contains a qualification) may be circulated to every member of the PLC (who is entitled to notice of the AGM at which the statutory financial statements and directors' report of the PLC are to be considered) and to the Registrar, in lieu of the documents specified in section 338(2).

12.VOLUNTARY REVISION OF FINANCIAL STATEMENTS

If it appears to the directors of a company that any statutory financial statements of the company or any directors' report in respect of a particular financial year, did not comply with the requirements of CA 2014 or, where applicable, of Article 4 of the IAS Regulation, they may prepare revised financial statements or a revised directors' report in respect of that year. All revisions should be made by reference to sections 366 to 379.

The revision can be in any of the following forms depending on what type of error is being revised:

- a supplementary note; or
- a revised directors' report; or
- revised financial statements.

Where the original financial statements were audited, the auditor will issue a revised auditor's report on the revised financial statements giving an opinion as to whether:

- the revised financial statements have been properly prepared in accordance with the relevant financial reporting framework;
- a true and fair view as at the date the original statutory financial statements were approved by the directors is given by the revised financial statements;
- the original statutory financial statements failed to comply with the requirements of CA 2014 or, where applicable, of Article 4 of the IAS Regulation, in the respects identified by the directors in the statement required by section 368(2);
- the information contained in the directors' report for the financial year for which the revised financial statements are prepared (or where that report has been revised, the revised directors' report) is consistent with those financial statements.

13.OFFENCES

Under CA 2014 there are four categories of offences. They are defined in section 871(1) as follows:

- A **Category 1** offence is an offence which could give rise to either:
  - A summary conviction, a Class A fine or a prison term not exceeding 12 months, or both; or
  - A conviction on indictment, a fine not exceeding €500,000 or a prison term not exceeding ten years, or both.
- A **Category 2** offence is an offence which could give rise to either:

◦A summary conviction, a Class A fine or a prison term not exceeding 12 months, or both; or
◦A conviction on indictment, a fine not exceeding €50,000 or a prison term not exceeding five years, or both.

•A **Category 3** offence is an offence which could give rise, on summary conviction, to either a Class A fine or a prison term not exceeding six months, or both.
•A **Category 4** offence is an offence which could give rise to a Class A fine on summary conviction.

There are many offences, of various categories, provided for within Part 6, including those pertaining to the preparation of financial statements. It is not the purpose of this document to address all such offences, though two offences of particular importance are discussed below, namely:

•the offences under section 286 pertaining to accounting records; and
•the offence under section 324(6) of approving statutory financial statements which do not give a true and fair view or otherwise comply with legal requirements.

Offences pertaining to Accounting records

Categorisation of offences

Section 286 specifies that a contravention of the requirements for accounting records constitutes a category 2 offence, unless it falls under one of the following:

•the contravention arose in relation to a company that is subsequently wound up and unable to pay its debts.
•the contravention persisted during a continuous period of three years or more.
•the contravention involved the failure to correctly record one or more transactions of a company the value or aggregate value of which transaction or transactions exceeded €1 million or 10 per cent of the net assets of the company, whichever is greater,

in which case it is a category 1 offence.

While previous Companies Acts distinguished contraventions where subsequently a company was wound up and unable to pay its debts, CA 2014 extends the 'more serious' categorisation to include contraventions that are persistent, as well as those that are more significant from a monetary perspective.

Defence

Section 286(8) continues to provide that it is a defence for directors to prove they had reasonable grounds for believing, and did believe, that a competent and reliable person was charged with the duty of undertaking the requirements, and that such a person was in a position to discharge that duty. In order for such a defence to be valid, the director will also now have to be able to prove that he/she had monitored the discharge of that duty by such competent and reliable person.

Offence of approving statutory financial statements that do not give a true and fair view or otherwise comply with legal requirements

Section 324(6) states that it is a category 2 offence for a director to be a party to the approval of statutory financial statements knowing that (or being reckless as to whether) the statutory financial statements "do not give a true and fair view or other comply with the requirements of this Act or, where applicable, of Article 4 of the IAS Regulation".

Section 324(7) states that every director of the company at the time the statutory financial statements are approved is taken to be a party to their approval "unless he or she shows that he or she took all reasonable steps to prevent their being approved".

APPENDIX 1: DIRECTORS' REPORTS - SUMMARY OF NEW REQUIREMENTS / AMENDMENTS

	Item	Old ref	New ref	New requirement / amendment	Effective
1	Names of directors	N/A	s326(1)(a)	•New requirement to disclose the names of persons who, at	F/Y beginnin

					any time during the financial year, were directors of the company.	g on/after 1 June 2015
2	Medium company qualifying conditions	s8(3) of 1986 Act	s350		•Increase in qualifying conditions of a medium company in relation to both turnover and balance sheet size. The qualifying condition for turnover is where it does not exceed €20m (increased from €15.2m) and for balance sheet size where it does not exceed €10m (increased from €7.6m). This is relevant for the exemption available to small and medium companies from explaining involvement with financial instruments and discussing key performance indicators.	1 June 2015
3	Acquisition / disposal of own shares	s14 of 1986 Act	N/A		•In relation to acquisitions/disposals of own shares, the following disclosures are no longer specified as a requirement: (a) percentage of the called-up share capital; (b) reason for purchase; (c) maximum number and nominal value of such shares held at any time during the year.	1 June 2015
4	Directors' interests in shares and debentures	s63 of 1990 Act	s329		•New concept of 'De-facto' director introduced. •CA 2014 does not permit option to include these disclosures in the notes to financial statements rather than directors report. •The requirements of section 329 in relation to disclosure, in the directors' report, of the interests of the directors and secretary in shares and debentures, are in some respects less onerous than those which	1 June 2015

					applied under previous Companies Acts. •The interests of the directors and secretary, in the shares or debentures of the company and other group undertakings, that are required to be included in the directors' report, are those interests that are required to be recorded in the company's register of such interests. The company is required to record in that register (i) changes in 'disclosable interests' that are notified by a director or secretary to the company; (ii) share options over its own shares that the company grants to a director or secretary; and (iii) shares acquired by a director or secretary through the exercise of the share options referred to in (ii). A 'disclosable interest' in shares is an interest in shares or share options of any group company provided the interest is in voting shares and comprises more than 1% of the nominal value of a class of share. •Consequently, certain interests of the directors and	

					secretary that represent not more than 1% of the issued share capital do not have to be disclosed in the directors' report.	
5	Statement of relevant audit information	N/A	s330		•New requirement to provide a statement that relevant audit information has been provided.	F/Y beginning on/after 1 June 2015
6	Reserves transfer	s158(1) of 1963 Act	N/A		•No longer a requirement to provide details of the amount, if any, that the directors recommend should be transferred to reserves (s158(1) 1963 Act).	1 June 2015
7	Details of subsidiaries and other 20% or more investments for unlimited companies	S158(5) and (6) of 1963 Act	N/A		•No longer a requirement for an unlimited company (not within scope of the European Communities (Accounts) Regulations, 1993) to include within the Directors' report, details of subsidiaries and other companies in which it holds beneficially 20% or more of the voting rights. The information is now required in the notes to the financial statements.	1 June 2015
8	Audit committee disclosure requirements for large companies	N/A	s167		•New requirement for a company that meets the definition of a 'large company' (where balance sheet total exceeds €25m and turnover exceeds €50m, in the most recent and immediately preceding financial year, for a company or a company and its subsidiary undertakings combined), to disclose: (a)whether the company has established an audit committee or decided not to;	F/Y beginning on/after 1 June 2015

				(b)if the company has decided not to establish an audit committee, the reasons for that decision. •No requirement to state whether the audit committee has only some of the specified responsibilities.	
9	Compliance policy statement	N/A	s225	•New requirement for a company that meets the qualifying conditions (where its balance sheet total exceeds €12.5m and turnover exceeds €25m, in respect of its financial year, except where qualifying for an exemption) to provide a 'Compliance Policy Statement'.	F/Y beginning on/after 1 June 2015
10	Directors' report – approval and signing	s158(2) of 1963 Act	s332 s332(3)	•The directors' report, and where applicable, the group directors' report, must be approved by the board of directors making the report and be signed on behalf of the board by two directors, where there are two or more directors. Where the company has a sole director, that director must approve and sign the report or reports concerned. Under previous Companies Acts, it was a requirement for all companies to have two directors. •New requirement that every copy of the director's report which is laid before the members in general meeting or is otherwise circulated, published or issued, should state the names of the persons	1 June 2015

				who signed it on behalf of the board.	

APPENDIX 2: 'COMPANIES ACTS FINANCIAL STATEMENTS' FORMATS AND NOTES - SUMMARY OF NEW REQUIREMENTS / AMENDMENTS

	Item	Old ref	New ref	New requirement / amendment	Effective
General					
1	Financial year end dates of subsidiary undertakings	s153(1) 1963 Act	s288(3)	•The directors of a holding company should ensure the financial year end dates of each of the subsidiary undertakings included in the consolidation concerned coincide with that of the holding company, except where there are substantial reasons not to do so, in which case there is a new requirement to disclose the reasons in the notes to the statutory financial statements of the company.	1 June 2015
2	Use of applicable accounting standards	N/A	s291(7)(a) s294(7)(a)	•The financial statements should include a statement as to whether they have been prepared in accordance with applicable accounting standards and should identify the standards in question ie FRS 101, FRS 102	1 June 2015

					(including FRS 103, where applicable), the FRSSE or EU IFRS. This is a new requirement, although the practice had been generally to disclose this.	
Profit and Loss Account						
3	Format/ Disclosure change: 'Other compensation costs' of staff	Sch-42(2) 1986 Act	s3 17 (2)	•When applying profit and loss account (P&L A/c) Formats 1 and 3, disclose in the notes the aggregate amount respectively of: (a)wages and salaries paid/payable in respect of those persons; (b)social insurance costs thereon; (c)other retirement benefit costs thereon; (d)other compensation costs in respect of those employees, specified by type.	1 June 2015	
		Sch 1986 Act	Sch 3		•Similarly, when applying P&L A/C Formats 2	

					and 4, ‘Other compensation costs’ is a new separate line item under ‘Staff Costs’ for inclusion on the face of the profit and loss account.	
4	Capitalised staff costs	N/A	s31 7(3)		•For all of the aggregate amounts of staff cost, disclose the amount treated as an expense or loss in the financial year, with a new additional requirement to disclose any amount capitalised into assets.	1 June 2015
5	Employee numbers calculation	Sch-42(4) 1986 Act	s31 7(4) ,(5)		•Average number of persons employed by the company is now determined on a monthly basis instead of on a weekly basis.	1 June 2015
6	Interest and similar charges / bank loans and overdrafts repayable/not repayable by instalment	Sch-39(2) 1986 Act	Sch 3- 63(a)		•Interest and similar charges payable are to be analysed into the following 3 categories: (a) bank loans and o	1 June 2015

					verdrafts made to the company; (b) loans to the company from group	

				undertakings; (c) all other loans made to the company. Under previous Companies Acts separate disclosure was required for bank loans and overdrafts repayable by	

				instalment and those not repayable by instalment, with loans from group undertakings being excluded from the disclosures generally.	
7	Definition of Turnover	Sch-75 1986 Act	s27 5	•Now expanded to state that ‘turnover’, in the case of a company whose ordinary activities include the making or holding of investments, should include the gross revenue derived from such activities.	1 June 2015
8	Auditor’s remuneration	s161D(1) 1963 Act	s32 2(1)	•The definition of auditor’s remuneration has been revised to now specifically include the reimbursement of auditor’s expenses.	1 June 2015
Balance Sheet					
9	Format changes	Sch 1986 Act	Sc h 3	•Called up share capital is now required to be split between share capital presented as a liability (divided between amounts falling due within one year and after one year) and share capital presented as equity •Accruals and deferred	1 June 2015

				income are now to be presented separately from each other in relation to both the amounts falling due within one year and after one year. •Various line items have been re-named, such as (with previous titles in brackets) 'Retirement benefit obligations' (Pension and similar obligations), 'Other undenominated capital' (Capital redemption reserve). 'Other reserves' (now to include 'Reserve for own shares'), 'Reserves provided for by the Constitution' (Reserves provided for by the Articles of Association).	
10	Financial asset and current asset investments	Sch-31(1) 1986 Act	Sch 3-50(1)	•No longer a requirement to analyse listed investments between those listed on a recognised stock	1 June 2015

					exchange and listed elsewhere.	
11	Creditors	N/A	Sch 3-58(2), (3)		•New requirement to disclose the terms of payment or repayment, and the rate of any interest payable on debts both repayable and not repayable by instalment (unless the number of debts is such that in the opinion of the directors it would result in a statement of excessive length, in which case it is sufficient to give a general indication of the terms of payment or repayment and the rates of any interest payable). This applies to creditors falling due within one year and after one year.	1 June 2015
12	Convertible loans	N/A	Sch 3 (Notes on the Balance Sheet Formats)		•New requirement to disclose the terms and conditions under which convertible loans are convertible into share capital.	1 June 2015
		Sch 28(2)	Sch 3-47(1)		•Particulars of any redeemed debentures which the company has power to re-issue	

					no longer required.	
13	Share capital – presented as equity	Sch-26(1) 1986 Act	s318(1)(a)		•In relation to the requirement to disclose the number and aggregate nominal value of authorised share capital (if any); under previous Companies Acts the disclosure of the number of shares was not a requirement.	1 June 2015
		N/A	s318(1)(d)		•For disclosure of allotted and called up share capital by class for share capital, analysis between shares presented as equity and shares presented as a liability is newly required (but that was generally disclosed already in practice).	
		N/A	s318(3)		•Where the company has allotted any shares during the financial year, disclosure of these shares analysed between shares presented as equity and shares presented as a liability is new.	
		s43A, 1983 Act	s318(1)(e)		•For shares held as treasury shares, only the aggregate nominal value of shares held was required under previous Companies Acts; there is a new	

					requirement to also disclose the number of shares. Likewise, the number and aggregate nominal value of allotted shares of each class held where more than one class of shares has been allotted in relation to treasury shares is a new requirement.	
		N/A	s318(4),(5)		•New requirement to provide particulars in relation to any 'contingent right to the allotment of shares in a company'. This term is defined to include any option to subscribe for shares and any other right to require the allotment of shares to any person whether arising on the conversion into shares or securities of any other description or otherwise.	
14	Treasury shares	s43A 1983 Act	s320(4)(a)		•Where a company, or nominee of a company, holds shares in the company (or in its holding company) or an interest in such shares, the number and aggregate	1 June 2015

				nominal value of those shares, and where shares of more than one class have been acquired, the number and aggregate nominal value of each class of such shares must be provided. Under previous Companies Acts, only the nominal value of those shares was required to be disclosed. Also, an analysis by class was not required under previous Companies Acts.	
Disclosures by Holding Undertakings relating to Subsidiary Undertakings and Other Undertakings of Substantial Interest					
15	Disclosure exemption in relation to net assets and profit or loss	s16 1986 Act	s314, s315	In relation to these interests of a holding undertaking, there is a general requirement to disclose the aggregate amount of the net assets and the profit or loss of each of these undertakings. However, there are various circumstances in which these disclosures are not required. One of the reliefs was in the past dependent in part on the holding undertaking's interest in the 'qualifying capital interest' (QCI) of the investee being included in or in a note to the group financial statements by way of the equity method of accounting. The QCI of a company with share capital represented total allotted share capital. The revised requirements replaces the QCI term with 'equity	1 June 2015

				shares' which only includes shares that are not restricted as regards to dividends or rights on winding up.	
16	Consideration paid for shares in company by a subsidiary undertaking	Sch 46(1) 1986 Act	s31 8(6)	Where the company is a ***holding undertaking***, the requirement to disclose the consideration paid for shares in the company by a subsidiary undertaking now generally applies. This is in addition to the requirement under previous Companies Acts to disclose the number, description and nominal value of the shares held by that undertaking, which continues to be a requirement under CA 2014. There are certain situations where this overall disclosure is not required; these remain unchanged under CA 2014.	1 June 2015 1 June 2015

APPENDIX 3: COMPANIES WHICH DO NOT QUALIFY AS A SMALL OR MEDIUM COMPANY UNDER CA 2014 (SCHEDULE 5)

1)A company that is an authorised investment firm within the meaning of the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007).
2)A company that is an authorised market operator.
3)A company that is an associated undertaking or a related undertaking, of an authorised investment firm or an authorised market operator, within the meaning of the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007).
4)A company to which Chapter VII, VIII or IX of Part II of the Central Bank Act 1989 applies.
5)A company that is engaged in the business of accepting deposits or other repayable funds or granting credit for its own account.
6)A company that is an associated body of a building society within the meaning of the Building Societies Act 1989.
7)A company that is an associated enterprise of a credit institution within the meaning of the European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009 (S.I. No. 475 of 2009).
8)An investment company within the meaning of Part 24 of the Companies Act 2014.
9)A company that is a management company, trustee or custodian within the meaning of Part 24 of the Companies Act 2014 or of Part 2 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005.
10)A company that is an undertaking for collective investment in transferable securities within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (S.I. No. 352 of 2011)
11)A company that is a management company or trustee of an undertaking for collective investment in transferable securities within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (S.I. No. 352 of 2011).
12)A company that is a management company or trustee of a unit trust scheme within the meaning of the Unit Trusts Act 1990.

13)A company that is a general partner or custodian of an investment limited partnership within the meaning of the Investment Limited Partnerships Act 1994.
14)A company that has close links (within the meaning of the European Union (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014) with an authorised investment firm referred to in *paragraph 1* or a company referred to in *paragraph 5*.
15)Any other company the carrying on of business by which is required, by virtue of any enactment or instrument thereunder, to be authorised by the Central Bank.
16)A company that is the holder of an authorisation within the meaning of—

a)Regulation 2 of the European Communities (Non-Life Insurance) Regulations 1976 (S.I. No. 115 of 1976);
b)Regulation 2 of the European Communities (Non-Life Insurance) Framework Regulations 1994 (S.I. No. 359 of 1994);
c)Regulation 2 of the European Communities (Life Assurance) Regulations 1984 (S.I. No. 57 of 1984); or
d)Regulation 2 of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994).

17)A company that is an insurance intermediary within the meaning of the Insurance Act 1989.
18)A company that is an excepted body within the meaning of the Trade Union Acts 1871 to 1990.

1 Sections 202 and 203 of the Companies Act 1990

2 Section 202(1) of the Companies Act 1990 – "...whether in the form of documents or otherwise"

3 Section 202(8) of the Companies Act 1990

4 Section 158(6A) of the Companies Act 1963

5 Previously required by section 193(3) of the Companies Act 1990

6 Section 4(8) and paragraph 44(2) of the Schedule to the Companies (Amendment) Act 1986

7 Paragraph 44(3) of the Schedule to the Companies (Amendment) Act 1986

8 Where expenses are classified by function, revenue and cost of sales are combined as "gross profit or loss". Where expenses are classified by nature revenue, changes in finished goods and work-in-progress and raw materials and consumables are combined as "gross profit or loss".

9 Where Format 1 or Format 3 is used Turnover, Cost of Sales and Other operating income are combined as "gross profit or loss". Where Format 2 is used Turnover, Variation in stocks of finished goods and in work in progress, own work capitalised, other operating income, raw material and consumables, and other external charges are combined as "gross profit or loss". Where Format 4 is used reductions in stock of finished goods and in work in progress, raw materials and consumables, other external charges, turnover, increase in stocks of finished goods and in work in progress, own work capitalised and other operating income are combined as "gross profit or loss".

10 Section 19(3A) of the Companies (Amendment) Act 1986