

# Chartered Accountants Ireland or CCAB-I material

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## Technical Release

### TR 05/2015 - Companies Act 2014 - Reports by the Statutory Auditor under the Companies Act 2014 (other than the Statutory Auditor's Report)

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## 1. INTRODUCTION

The vast majority of the provisions of the Companies Act 2014 commenced on 1 June 2015.

This technical release addresses the reporting obligations imposed on the statutory auditor other than (i) the statutory auditor’s report on the statutory financial statements under section 336 and (ii) the obligation on the statutory auditor to report to the Corporate Enforcement Authority<sup>1</sup> in accordance with sections 392 and 393 (both of which are the subject of other Technical Releases<sup>2</sup>). The intention of this technical release is to highlight changes to these other reporting obligations vis-à-vis the requirements under previous Companies Acts.

This Technical Release addresses:

- various reporting obligations such as the ‘special’ auditor’s report’ on abridged financial statements, the statement required from the statutory auditor on a company’s ability to make a distribution, the report of the statutory auditor when a company is required to prepare a statutory declaration of solvency, etc;
- the *Summary Approval Procedure* by which certain transactions, which are otherwise restricted by the Companies Act 2014, may be undertaken<sup>3</sup>. Such transactions include financial assistance by a company for the purpose of acquisition of its shares and certain transactions in favour of a director or connected persons of a director; and
- the new provisions about reporting on the voluntary revision by companies of the statutory financial statements.

This Technical Release is intended to assist members in familiarising themselves with some of the key changes in the Companies Act 2014 and not to be an in-depth analysis of the relevant provisions of the Companies Act 2014.

Unless otherwise stated, all references to the Companies Act 2014 in this document refer to the Companies Act 2014 as enacted together with all subsequent amendments thereto as at the date of this release, including but not limited to the Companies (Accounting) Act 2017, the Companies (Statutory Audits) Act 2018, the Companies (Miscellaneous Provisions) (COVID-19) Act 2020 ,the Companies (Rescue Process for Small and Micro Companies) Act 2021, the Companies (Corporate Enforcement Authority) Act 2021 (“CEA Act 2021”) and the European Union (Preventive Restructuring ) Regulations 2022.

References to ‘section(s)’ are references to the relevant sections of the Companies Act 2014, unless otherwise indicated.

## 2. ‘OTHER REPORTS’ REQUIREMENTS UNDER THE COMPANIES ACT 2014 – COMPARISON TO REPORTS UNDER PREVIOUS COMPANIES ACTS

Company law in Ireland has required and continues to require the preparation of various reports by a statutory auditor. The following table sets out the reports which were required by previous Companies Acts and the sections in the Companies Act 2014 which require similar reports. The Companies Act 2014 requires a number of additional reports to be prepared by a statutory auditor; these are also set out below. Where the Companies Act 2014 (and the previous Companies Acts) provisions specify the addressees of the relevant report/statement, this has been identified.

Companies Acts 1963 to 2013	Companies Act 2014	Notes
<b><i>EXISTING REPORTING REQUIREMENTS CONTINUED UNDER the Companies Act 2014</i></b>		
Report to the directors on abridged	Report to the directors on abridged financial	Section 356(1) requires a single special report of

<p>financial statements pursuant to <b>section 18 (4) of the Companies (Amendment) Act 1986.</b></p>	<p>statements pursuant to <b>section 356 (1).</b></p>	<p>the statutory auditor to the directors containing:</p> <ul style="list-style-type: none"> <li>• a statement of the statutory auditor on the abridged financial statements addressing the matters set out in 356(2); and</li> <li>• a copy of the statutory auditor's report under section 391 in the form required by section 336.</li> </ul> <p>The Companies Act 2014 requires the report to be signed in the statutory auditor's own name, for and on behalf of the statutory audit firm. Category 2 offence to circulate, publish or issue abridged financial statements without stating the name of the statutory auditor.</p>
<p>Report on abridged financial statements annexed to the annual return pursuant to <b>section 18 (3) of the Companies (Amendment) Act 1986.</b></p>	<p>N/A</p>	<p>A separate report is no longer required (see above).</p>
<p>Statement on a company's ability to make a distribution pursuant to <b>section 49(3)(c) of</b></p>	<p>Statement on a company's ability to make a distribution pursuant to <b>section 121.</b></p>	<p>No change.</p>

<p><i>the Companies (Amendment) Act 1983.</i></p>		
<p>Statement when a private company wishes to re-register as a plc pursuant to <b>section 9(3)(b) of the Companies (Amendment) Act 1983.</b></p>	<p>Statement when a company wishes to re-register as a PLC pursuant to <b>section 1291(1)(a)(iii).</b></p>	<p>No distinction made as regards a private company in the Companies Act 2014.</p>
<p>Report on balance sheet prepared other than in respect of an accounting period for the purpose of a private company re-registering as a public company pursuant to <b>section 9(3)(c) of the Companies (Amendment) Act 1983.</b></p>	<p>Report on balance sheet prepared other than in respect of an accounting period for the purpose of a company re-registering as a PLC pursuant <b>section 1291(1)(a)(ii).</b></p>	<p>No distinction made as regards a private company in the Companies Act 2014.</p>
<p>Independent Person's report to the company when a public company wishes to allot shares otherwise than for cash pursuant to <b>section 30(1)(b) of the Companies (Amendment) Act 1983.</b></p>	<p>Independent Person's report to the PLC when a public company wishes to allot shares otherwise than for cash pursuant to <b>section 1028(1)(b).</b></p>	<p>No change. However, a valuation report is required by section 1032(4)(a) regarding the fair value of non-cash consideration other than securities and money market instruments referred to in section 1031.</p>

<p>Independent Person's report to the company when non-cash assets are transferred to a public company by certain of its members pursuant to <b>section 32(3)(b) of the Companies (Amendment) Act 1983.</b></p>	<p>Independent Person's report to the PLC when non-cash assets are transferred to a public company by certain of its members pursuant to <b>section 1034(3)(b).</b></p>	<p>No change.</p>
<p>Report on initial accounts when a public limited company wishes to make a distribution pursuant to <b>section 49(6)(b) of the Companies (Amendment) Act 1983.</b></p>	<p>Report on initial accounts when a public limited company wishes to make a distribution pursuant to <b>section 121 as applied by section 1083(6)(b).</b></p>	<p>Section 121 is applied by section 1083 in part 17 which applies to PLCs.</p>
<p>Independent Person's report when a company is required to prepare a statutory declaration of solvency pursuant to <b>section 256 of the Companies Act 1963 as substituted by section 128 of the</b></p>	<p>Independent Person's report when a company is required to prepare a statutory declaration of solvency pursuant to <b>section 207.</b></p>	<p>The report required under the Companies Act 2014 (under the Summary Approval Procedure) is to include an opinion that the declaration is "not unreasonable". The opinion required under previous Companies Acts was that the declaration was "reasonable".</p>

<p><b>Companies Act 1990.</b></p>		
<p>Statement of Consent required accompanying a report issued in connection with a declaration of solvency pursuant to <b>section 256 of the Companies Act 1963 as substituted by section 128 of the Companies Act 1990.</b></p>	<p>N/A</p>	<p>Not required under the Companies Act 2014.</p>
<p>Report to the company when a company has failed to keep proper books of account pursuant to <b>section 194 of the Companies Act 1990.</b></p>	<p>Report to the company and to the Registrar (who informs the Corporate Enforcement Authority) when a company has failed to keep adequate accounting records pursuant to <b>section 392<sup>1</sup>.</b></p>	<p>The section now refers to accounting records which is similar to but not the same as books of account.</p> <p>Section 392(2) refers to “...taken the necessary steps to ensure that those provisions are complied with...” which is a change in wording from the section 194 of the Companies Act 1990.</p> <p>Failure to make the report is a category 3 offence.</p>
<p>Report to the directors to be annexed to a company’s annual return confirming that the financial statements have been audited pursuant to <b>section 128(6B) of</b></p>	<p>Report to the directors to be annexed to a company’s annual return confirming that the financial statements have been audited pursuant to <b>section 1277.</b></p>	<p>Only non-designated ULCs (private unlimited companies) may avail of the exemption in section 1274. In order to do so, a report by the statutory auditor is required by section 1277. A non-designated ULC under the Companies Act 2014 is not the same as an unlimited company under previous Companies Acts. Section</p>

<p><i>the Companies Act 1963.</i></p>		<p>1274 was amended by the Companies (Accounting) Act 2017 to cover additional corporate structures.</p>
<p>Notice to the company of intention to resign, including statement about whether there any circumstances connected with the resignation to be brought to the notice of the members or creditors of the company pursuant to <b>section 185(1) of the Companies Act 1990.</b></p>	<p>Notice to the company of intention to resign, including statement about whether there any circumstances connected with the resignation to be brought to the notice of the members or creditors of the company pursuant to <b>section 400(1).</b></p>	<p>No change.</p>
<p>Report to the Registrar of Companies and to the Irish Accounting and Auditing Supervisory Authority on ceasing to hold office pursuant to <b>section 185(3) of the Companies Act 1990 and Regulation 62 of S.I. No. 220 of 2010,</b> (European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations</p>	<p>Report to the Registrar of Companies and to the Irish Accounting and Auditing Supervisory Authority on ceasing to hold office pursuant to <b>section 400(4) and 403(1)</b> respectively .</p>	<p>Report to the Registrar within 14 days under section 400, failure to make the report is a category 3 offence. Report to IAASA within 30 days under section 403.</p>

2010) respectively.		
Section 163 Companies Act 1963, Section 193 Companies Act, 1990	Statutory auditors' report on revised financial statements and revised report. Section 370.	See section 4 below "4. REPORTING ON REVISED FINANCIAL STATEMENTS for fuller details
<b><i>NEW REPORTING REQUIREMENTS INTRODUCED UNDER the Companies Act 2014</i></b>		
N/A	Report to the directors to be annexed to a Designated Activity Company's (DAC) annual return confirming that the financial statements have been audited pursuant to <b><i>section 996</i></b> .	Exemption from filing available to a DAC formed for charitable purposes. Section 996 requires special statutory auditor's report confirming the financial statements have been audited and including the statutory auditor's report to the members of the DAC pursuant to section 391.
N/A	Independent expert valuation report under section 1032(4)(a)	alternative valuation process to that in 1028(1)(b); the section references opinion as to fair value by an "expert"; requires an ordinary resolution of the PLC or its board. It applies where the consideration for the allotment is made up of assets other than securities and money-market instruments.
N/A	Expert's report to the shareholders on the share exchange ratio in a merger pursuant to <b><i>section 1133</i></b> .	The content of the report is set out in section 1133(7) and shall, inter alia: <ul style="list-style-type: none"> <li>•give the opinion of the expert as to whether the proposed share exchange ratio is fair and reasonable;</li> <li>•give the opinion of the expert as to</li> </ul>



		<p>the adequacy of the method or methods used in the case in question; and</p> <ul style="list-style-type: none"> <li>•give the opinion of the expert as to the relative importance attributed to such methods in arriving at the values decided on.</li> </ul> <p>A qualified person for the purpose of the report under this section is a statutory auditor. There are restrictions on the circumstances where a statutory auditor can be a qualified person relating to the independence of the statutory auditor (section 1133(6)).</p>
N/A	<p>Statutory auditor's report to the members on merger financial statements pursuant to <b>section 1134(5)</b>.</p>	<p>Section 1134(5) applies Part 6 requirements regarding the statutory auditor's report on merger financial statements. Merger financial statements are required to be drawn up where the latest statutory financial statements of any of the merging companies relate to a financial year end more than 6 months before the date of the common draft terms of merger.</p>
N/A	<p>Expert's report to the shareholders on the share exchange ratio in a division pursuant to <b>section 1155</b>.</p>	<p>The content of the report is set out in section 1155(6) and shall, inter alia:</p> <ul style="list-style-type: none"> <li>•give the opinion of the expert as to whether the proposed share</li> </ul>

		<p>exchange ratio is fair and reasonable;</p> <ul style="list-style-type: none"> <li>•give the opinion of the expert as to the adequacy of the method or methods used in the case in question; and</li> <li>•give the opinion of the expert as to the relative importance attributed to such methods in arriving at the values decided on.</li> </ul> <p>A qualified person for the purpose of the report under this section is a statutory auditor. There are restrictions on the circumstances where a statutory auditor can be a qualified person relating to the independence of the statutory auditor (section 1155(5)).</p>
N/A	Statutory auditor's report to the members on division financial statements pursuant to <b>section 1156(5)</b> .	Section 1156(5) applies Part 6 requirements regarding the statutory auditor's report to division financial statements. Division financial statements are required to be drawn up where the latest statutory financial statements of any of the companies involved in the division relate to a financial year ended more than 6 months before the date of the common draft terms of division.
N/A	Report to the directors to be annexed to the	Exemption from filing for a CLG formed for charitable purposes. The

	annual return of a company limited by guarantee (CLG) confirming that the financial statements have been audited pursuant to <b>section 1220</b> .	section requires a special statutory auditor's report confirming the financial statements have been audited and include the statutory auditor's report to the members of the CLG pursuant to section 391 (unless the CLG is entitled to and has availed of audit exemption).
N/A	Statutory auditor's report to the members on financial statements other than in respect of an accounting period for the purpose of a limited company re-registering as an unlimited company pursuant to <b>section 1296(6)</b> .	Section 1296 requires financial statements to be delivered to the registrar covering a period of 12 months ending on a date that is not more than 3 months prior to the date of the application to re-register. Section 1296(6) requires a statutory auditor's report on those financial statements.
N/A	Report to the directors on abridged financial statements other than in respect of an accounting period for the purpose of a limited company re-registering as an unlimited company pursuant to <b>section 1296(10)</b> .	Section 1296 allows abridged financial statements to be delivered to the registrar covering a period of 12 months ending on a date that is not more than 3 months prior to the date of the application to re-register, when a company could file abridged financial statements under the provisions of Part 6. Section 1296(10) requires a special report by the statutory auditor on the abridged financial statements as referred to in section 356.
N/A	Statutory auditor's report to the members on accounting documents of a non-EEA company	Section 1305 requires accounting documents to be filed each year by a non-EEA company for so long as a branch of it stands established in the State. The accounting

	pursuant to <i>section 1305(4)</i> .	documents must be audited.
N/A	Report on a balance sheet of a body corporate that wishes to register as a PLC pursuant to <i>section 1317</i> .	<p>Under section 1317 a body corporate may be registered as a PLC if, inter alia, the body corporate delivers to the Registrar:</p> <ul style="list-style-type: none"> <li>•a copy of its balance sheet prepared as at a date not more than 7 months before the date the Registrar receives the application;</li> <li>•an unqualified audit report on that balance sheet by the statutory auditor; and</li> <li>•a copy of a written statement by the statutory auditor that, at the balance sheet date, the amount of the body's net assets was not, in his or her opinion, less than the aggregate of its called-up share capital and undistributable reserves.</li> <li>•A copy of any report prepared under section 1319. (this relates to a report on consideration where shares are allotted by</li> </ul>



ies Act 2014 restriction	on									nt person's <sup>4</sup> report required
s. 82	Financial assistance by a company	✓ <sup>6</sup>	✓	X	n/a	✓	✓	n/a	X	X

	y f o r t h e p u r p o s e o f a c q u i s i t i o n o f i t s s h a r e s									
s . 8 4	T h e r e d u c t i o n i n c o	✓	✓	X	n / a	X	X	n / a	X	✓

	m p a n y c a p i t a l									
s .9 1	T h e v a r i a t i o n o f s h a r e c a p i t a l o n r e o r g a n i s a t i o	✓	✓	X	n / a	X	X	n / a	✓	✓



	n s									
s · 1 1 8	T r e a t m e n t o f p r e - a c q u i s i t i o n p r o f i t s / l o s s e s a s b e i n g p r o f i	✓	✓	✓	✓	X	X	X	X	✓







	u									
	p									

Sections 200 to 211<sup>4</sup> set out the summary approval procedure with variation in requirements dependent on the transaction being contemplated (see [Table 2](#) for details of the requirements in each case). The summary approval procedure involves a special resolution, a declaration by the directors, and, as noted in the above table, in the case of four of the seven restricted transitions (capital reduction; capital variation on a reorganisation; pre-acquisition profits and voluntary winding up) an independent person’s report, which states whether, in the opinion of the independent person, the directors’ declaration of solvency is not unreasonable.

The Summary Approval Procedure consists of:-

- Resolution:** A special resolution (see section 191(2) and (3) – not less than 75% of the votes cast) passed by the members not more than 12 months prior to the commencement of the activity; however:
  - the resolution must be passed unanimously in the case of a merger, and
  - in the case of the treatment of pre-acquisition profits the resolution must be passed, in accordance with section 202(3), no more than 60 days prior to the commencement of the activity, or 30 days under specific circumstances<sup>7</sup>).
- Declaration:**
  - the content of the declaration depends on the transaction (see below)
  - it must be made in writing by a majority of the directors at a directors’ meeting not more than 30 days before the meeting of the members to pass the resolution;
  - a copy of the declaration must be delivered to the CRO within 21 days of carrying on the restricted activity; this is a strict deadline and if missed the procedure must be completed once again unless application is made to the High Court and it is found just and equitable to extend the deadline.
- Independent person’s report:**
  - as indicated in [Table 1](#) above, an independent person’s report is required in the case of four of the transactions:
    - capital reduction – section 84;
    - capital variation on a reorganisation – section 91;
    - pre-acquisition profits – section 118; and
    - voluntary winding up – section 579.
  - The report consists of an opinion as to whether the directors’ declaration is not unreasonable. Section 208 requires the independent person making the report to be "a person who is qualified at the time of the report to be appointed, or to continue to be, statutory auditor of the company".

In the case of a merger, both merging companies must pass the resolution unanimously. An additional declaration concerning the “prescribed effects provisions” (refer to section 209) is also required.

**Personal liability** – the High Court may find a director making a declaration of solvency without reasonable grounds, liable without limit for the company’s debts. Further, where a company is wound up within 12 months of the date of making the declaration, and its debts are not paid or provided for in full within 12 months after the commencement of the winding up, there is a rebuttable presumption that the directors did not have reasonable grounds for the declaration of solvency – refer to section 210.

**Moratorium** - there is a 30-day moratorium after the members pass the special resolution, unless the vote was passed by members holding more than 90% by voting rights. Provision is made in law for application to the High Court to cancel the resolution, in which case the moratorium applies until the High Court has dealt with the matter-see section 211.

**Table 2 – Requirements pertaining to the Directors’ Declaration**

Section 203 – Financial assistance (section 82) or transactions with directors (section 239)
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- The circumstances in which the transaction or arrangement is to be entered into;
- the nature of the transaction or arrangement;
- the person or persons to or for whom the transaction or arrangement is to be made;
- the purpose for which the company is entering into the transaction or arrangement;
- the nature of the benefit which will accrue to the company directly or indirectly from entering into the transaction or arrangement; and
- that the declarants have made a full enquiry into the affairs of the company and that having done so they have formed the opinion that the company having entered into the transaction or arrangement will be able to pay or discharge its debts and other liabilities in full as they fall due during the period of 12 months after the date of the transaction or arrangement.

**Section 204 – Capital reduction (section 84) or variation on a reorganisation (section 91)**

- The circumstances in which the transaction or arrangement is to be entered into;
- the nature of the transaction or arrangement;
- the person or persons to or for whom the transaction or arrangement is to be made;
- the total amount of the company’s assets and liabilities as at the latest practicable date before the date of making of the declaration and in any event at a date not more than 3 months before the date of that making;
- the anticipated total amount of the company’s assets and liabilities immediately after the restricted activity having taken place;
- that the declarants have made a full inquiry into the affairs of the company and that, having done so, they have formed the opinion that the company, after the restricted activity has taken place, will be able to pay or discharge its debts and other liabilities (being the debts and liabilities identified above and so far as not already paid or discharged) in full as they fall due during the period of 12 months after the date of that event; and
- that the declarants do not have actual or constructive notice that the company will incur any material, extraordinary, future liability within the period of 12 months after the date of the making of the declaration.

**Section 205 – Pre-acquisition profits (section 118)**

- The amount of the profits or losses making up the “proposed distribution”;
- the total amount of the company’s assets and liabilities as stated in its last statutory financial statements or interim financial statements properly prepared as of a date specified in the declaration, and the date so specified shall be the date which is the latest practicable date before the date of making of the declaration and in any event shall not be a date more than 3 months before the date of such making;
- that the declarants have made a full inquiry into the affairs of the company and that, having done so, they have formed the opinion that, if the company were to make the proposed distribution within 2 months after the date of the making of the declaration, the company would be able to pay or discharge its debts and other liabilities included in the financial statements referred to above as they fall due during the period of 12 months after the date of that distribution.

**Section 206 – Merger (section 464)**

- The total amount of the assets and liabilities of the merging company in question as at the latest practicable date before the date of making of the declaration and in any event at a date not more than 3 months before the date of that making; and

•that the declarants have made a full inquiry into the affairs of the company and the other merging companies and that, having done so, they have formed the opinion that the successor company (within the meaning of Chapter 3 of Part 9) will be able to pay or discharge the debts and other liabilities of it and the transferor company or companies in full as they fall due during the period of 12 months after the date on which the merger takes effect.

#### **Section 207 – Members winding up (section 579)**

•The total amount of the company’s assets and liabilities as at the latest practicable date before the date of making of the declaration and in any event at a date not more than 3 months before the date of that making; and

•that the declarants have made a full inquiry into the affairs of the company and that, having done so, they have formed the opinion that the company will be able to pay or discharge its debts and other liabilities in full within such period not exceeding 12 months after the commencement of the winding up as may be specified in the declaration.

#### **4.REPORTING ON REVISED FINANCIAL STATEMENTS**

Chapter 17 of Part 6 deals with the voluntary revision of defective statutory financial statements. There was no provision in previous Companies Acts for such revision.

##### **Voluntary revision of defective statutory financial statements**

Section 366 grants company directors the ability to revise statutory financial statements and directors’ reports which do not comply with the Companies Act 2014 (or, where applicable, Article 4 of the IAS Regulation defined in section 274 of the Companies Act 2014). However, the section cannot be used to correct a document that may have been filed in error but in itself complies with the Companies Act 2014<sup>8</sup>.

It should be noted that it is not mandatory for directors to revise accounts except for entities required to do so by IAASA under the Transparency (Directive 2004/109/EC) Regulations 2007<sup>9</sup> (S.I. No. 277 of 2007).

##### **Limitation as to the extent of revisions permitted by law**

Section 366(2) requires that where the original statutory financial statements or original directors’ report have been laid before the members in general meeting or delivered to the Registrar, the revisions shall be confined to:

- “(a)the correction of those respects in which the original statutory financial statements or original directors’ report did not comply with the requirements of this Act or, where applicable, of Article 4 of the IAS Regulation, and
- (b)the making of any necessary consequential alterations.”

##### **Revision of statutory financial statements by replacement or by supplementary note**

Section 366(3)(b) indicates that:

- “(i)where the amounts and presentation of the profit and loss account, balance sheet or other statements required by the financial reporting framework are not affected by reason thereof – the revision may be effected by a supplementary note, and
- (ii)in all other cases – revised financial statements shall be prepared.”

##### **Revision of directors’ report**

Section 366(4)(b) states:

- “(i)in a case where the additional information to be provided by way of revision does not affect other information included in the report the revision may be effected by supplementary note, and
- (ii)in all other cases – a revised directors’ report shall be prepared.”

##### **Approval and signature of revised financial statements**

Section 368 requires a statement clearly identifying the replacement financial statements or supplementary note. Furthermore, it indicates the replacement financials have been prepared as

at the date of the original financial statements and not as at the date of the revision and, accordingly, do not deal with events and transactions between those dates

Furthermore, a statement is required to indicate the respects in which the original statutory financial statements did not comply with the requirements of the Companies Act 2014<sup>40</sup> and details of any significant amendments made consequential upon remedying of those defects.

In the case of a revision effected by supplementary note section 368 requires statements that the note revises in certain respects the original statutory financial statements of the company and is to be treated as forming part of those original statutory financial statements.

The above mentioned statements are required to be “in a prominent position in the revised financial statements, or in the case of a revision effected by supplementary note, in that note”.

### **Approval and signature of revised directors’ reports**

Section 369 requires statements as to the following matters to be made in a prominent position in the revised directors’ report or in the supplementary note when the revision is effected by such a note:

- (i) that the revised directors’ report replaces the original directors’ report for the specified year;
- (ii) that it has been prepared as at the date of the original directors’ report;
- (iii) the respects in which the original directors report did not comply with the Companies Act 2014<sup>41</sup>; and
- (iv) any significant amendments made consequential upon the remedying of those defects.

### **Statutory auditor’s report on revised financial statements and revised report**

The company’s current statutory auditor shall make a report to the company’s members on the revised financial statements in accordance with section 370.

Where the statutory auditor’s report on the original statutory financial statements was not made by the company’s current statutory auditor, the directors of the company may resolve that the report on the revised financial statements is to be made by the person or persons who made the first mentioned report provided that that person or those persons agree to do so and would be qualified for appointment as statutory auditor of the company (section 370(3)).

The statutory auditor’s opinion on the revised financial statements shall state whether, in the statutory auditor’s opinion, the revised financial statements have been properly prepared in accordance with the relevant financial reporting framework and in particular, the provisions of the Companies Act 2014<sup>42</sup> and whether 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 (section 370(5)).

The statutory auditor’s report shall also state whether, in the statutory auditor’s opinion, the original statutory financial statements failed to comply with the requirements of the Companies Act 2014<sup>43</sup>, as identified by the directors in the statement required by section 368(2) (section 370(6)).

The statutory auditor’s report expresses an opinion as to whether the information given in the directors’ report or revised directors’ report is consistent with the revised financial statements (section 370(7)).

The statutory auditor shall consider if there are any reporting obligations to the Corporate Enforcement Authority (formerly the ODCE) arising from the work on the report on revised financial statements.

### **Statutory auditor’s report where a company ceases to be exempt from audit**

Where, as a result of revisions to the statutory financial statements a company is no longer entitled to exemption from audit, section 371 requires the company to cause a report by the statutory auditor of the company on the revised financial statements. The statutory auditor’s report is required to be delivered to the Registrar within 2 months of the date of the revision of the financial statements.

### **Statutory auditor’s report on revised directors’ report alone**

Where a revised directors’ report is prepared, the directors’ report is required to state whether in the statutory auditor’s opinion the information given in the revised report is consistent with the statutory financial statements for the relevant year (section 372).



## **Effects of revision**

Once the directors approve the revised financial statements and/or revised directors' report, the provisions of the Companies Act 2014 replace the original statutory financial statements or original directors' report with the revised financial statements and/or directors' reports (section 373).

## **Publication of revised financial statements and reports**

The revised financial statements, revised directors' report together with a copy of the statutory auditor's report on those financial statements shall be sent to the members of the company not more than 28 days after the date of revision. Additionally, at the date of revision, any members of the company (who were not members when the original report was issued), debenture holders or persons who are entitled to receive notice of general meetings of the company, are also entitled to receive a copy (section 374).

## **Delivery of revised financial statements and revised reports**

Within 28 days of revision the directors shall send to the Registrar, if they have filed the original statutory financial statements or directors' report, the revised financial statements, the revised directors' report and a copy of the statutory auditor's report on those financial statements or (as the case may be) on that report. In the case of a revision effected by supplementary note, a copy of that note, together with a copy of the statutory auditor's report on the revised financial statements or (as the case may be) on the revised directors' report (section 376).

## **Small companies**

If revised financial statements are prepared and the company, prior to the date of revision has filed abridged financial statements, these abridged financial statements may have to be revised in light of the revised financial statements (section 377).

[1](#) References to the Director are replaced by reference to the Corporate Enforcement Authority following the coming into force of the CEA Act 2021 in July 2022.

[2](#) See Technical Releases TR 03/2015 'Companies Act 2014 Implications for statutory auditor's reports on statutory financial statements' and TR 04/2015 'Companies Act 2014 A statutory auditor's duty to report to the Director of Corporate Enforcement' respectively.

[3](#) Note some minor changes have occurred on the commencement of the Companies (Corporate Enforcement Authority) Act 2021.

[4](#) A person qualified to be appointed or to continue to be the statutory auditor of the company.

[5](#) 'LTD' - Private company limited by shares; 'DAC' - Designated Activity Company; 'PLC' - Public limited company; 'CLG' - Company limited by guarantee; 'ULC' - Private unlimited company; 'PUC' - Public unlimited company; 'PULC' - Public unlimited company that has no share capital; 'IC' - Investment company.

[6](#) Subject to Ministerial Regulations, a private limited subsidiary of a PLC cannot avail of the procedure to provide assistance in relation to the PLC parent's shares – section 82(7) and (8).

[7](#) The 30 days period applies if members holding more than 90% in nominal value of each class of issued shares of the company and entitled to vote at general meetings of the company have voted in favour of the special resolution, or if the resolution has been passed by unanimous written resolution in accordance with section 193.

[8](#) *Wee Care Limited v Companies Registration Office* [2020] IECA 266

[9](#) Amended by the Companies (Accounting) Act 2017 and the Transparency (Directive 2004/109/EC) (Amendment) Regulations 2017 [S.I. No. 336 of 2017]

[10](#) Or where applicable, of Article 4 of the IAS Regulation.

[11](#) Or where applicable, of Article 4 of the IAS Regulation

[12](#) Or where applicable, of Article 4 of the IAS Regulation

[13](#) Or where applicable, of Article 4 of the IAS Regulation