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Audit exemption

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INTRODUCTION

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 up to 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 and the Companies (Corporate Enforcement Authority) Act 2021 ("CEA Act 2021").

i. The Companies Act 2014 was signed on 23 December 2014. Most of the provisions of the Companies Act 2014 commenced on 1 June 2015. With limited exceptions, the

accounting and auditing related provisions commenced for financial statements approved on or after 1 June 2015.

ii. The Companies Act 2014 extended the scope of audit exemption to certain types of companies which, under previous Companies Acts, were unable to avail of the exemption, subject to such companies meeting the qualifying conditions such as small companies which are parent or subsidiary companies, companies limited by guarantee, dormant companies.

iii. This Technical Release is intended to assist members in familiarising themselves with the audit exemption regime in the Companies Act, 2014 and not to be an in-depth analysis of the relevant provisions of Companies Act, 2014. The questions and answers contained in this Technical Release are intended to address issues/queries which may arise in the implementation of the audit exemption regime under Companies Act, 2014.

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

QUESTIONS AND ANSWERS

Q1 What types of companies can avail of audit exemption under the Companies Act 2014?

1.1 Company types

The Companies Act 2014 introduces audit exemption for a number of different types of company which before the Companies Act, 2014 were unable to avail of the exemption, including:

a) **Group companies** - Parent and subsidiary companies are permitted, under section 360, to avail of audit exemption if they meet the criteria in section 280 B of the Companies Act, 2014 '*Qualification of company as small company: holding company*'.

b) **Dormant companies** – subject to meeting the conditions set out in section 365.

c) **Guarantee companies** - Under Part 18, companies limited by guarantee which do not have a share capital - "CLGs" - can avail of audit exemption. Such companies were deemed to be public companies under previous legislation and were therefore unable to avail of audit exemption, which restricted the exemption to private companies.

d) The new form of company established under Companies Act, 2014, the designated activity company ("DAC") under Part 16, is also entitled to claim audit exemption, subject to similar criteria as private companies limited by shares ("LTDs").

e) **Private unlimited companies** ('ULCs') are also entitled to avail of audit exemption.

1.2 Qualifying criteria

Sections 358 to 364 set out the requirements for companies limited by shares ('LTDs') to avail of audit exemption, both for non-group and group situations. Under section 358(1), a company can avail of audit exemption in accordance with section 360 if the company qualifies as a small company in relation to that financial year, as determined in accordance with the provisions of section 280 A (company) or 280 B (group).

Standalone companies are dealt with at Q2 below.

Group situations are dealt with at Q 6 below.

Under section 280 A (3), the qualifying conditions for a small company are satisfied by a company in relation to a financial year if at least two of the three thresholds – turnover, balance sheet total and average number of employees- are not exceeded in that year. It is no longer necessary to have recorded the decision to avail of audit exemption in the minutes of a directors' meeting in advance of the year end.

1.3 Right of Corporate Enforcement Authority re books, documents, and information

Readers are reminded that the Corporate Enforcement Authority has replaced the Office of the Director of Corporate Enforcement since July 2022.

Where a company has availed of audit exemption, the Corporate Enforcement Authority (CEA) can require, under section 335 (5) of the Companies Act 2014, access to and facilities for inspecting and taking copies of the books and documents of the

company and information to satisfy the CEA that the company complied with the criteria for availing of audit exemption under sections 358 and 359. The ODCE Annual Reports of 2018 and 2019 record that two directions were issued in each of those years by the ODCE in relation to the availing of the audit exemption.

Q2: My client company is a standalone company, not part of any group structure; what are the criteria under the Companies Act, 2014 to qualify for audit exemption?

2.1 Sections 358 (*Main conditions for audit exemption – non-group situation*) and 359 (*Main conditions for audit exemption – group situation*) and sections 280 A, 280 B and 280 C set out the main conditions for audit exemption. These sections require the company claiming audit exemption to meet the respective qualifying conditions to be classified as small.

2.2 The conditions for a standalone small company to avail of audit exemption are that:

- a) The company must qualify as small in respect of the financial year in question in accordance with section 280A of the Companies Act 2014.
- b) The company does not fall within certain categories; must not be excluded under section 362 or as an “ineligible company” (see further in Q8).
- c) A notice has not been served under section 334 by members holding not less than one-tenth of the voting rights in the company stating that the member(s) do not wish the audit exemption to be available to the company in a financial year specified in the notice.
- d) The company’s annual return is filed on time in accordance with section 343¹ in respect of the relevant financial year (see section 363 of the Companies Act 2014).

2.3 The qualifying conditions for a small company are satisfied by a company in relation to a financial year in which it fulfils two or more of the following requirements in accordance with section 280A:

- a) The amount of turnover² of the company does not exceed €12 million.
- b) The balance sheet total of the company does not exceed €6 million.
- c) The average number of employees of the company does not exceed 50 (Section 280 A (3)).

2.4 In order to transpose the 2013 EU Accounting Directive³ the thresholds in the Companies Act, 2014 were increased in the Companies (Accounting) Act 2017 to raise the turnover and balance sheet total thresholds up to a maximum of €12 million and €6 million, respectively. The vast bulk of the provisions of the 2017 Act came into force on 9 June 2017 and the accounting related changes introduced including increased thresholds affect companies for financial years beginning on or after 1 January 2017. A new chapter 1A has been inserted into Part 6 of the Companies Act 2014 by the Companies (Accounting) Act 2017 dealing with qualification based on company size.

2.5 ‘Amount of turnover’ is the amount of turnover shown in the company’s profit and loss account (and is proportionally adjusted where the financial year is not in fact a year) and ‘balance sheet total’ is the aggregate assets as shown in the balance sheet of the company.

2.6 Under section 317 (5) and (6) of the Companies Act, 2014, ‘Average number of employees’ is determined on a monthly basis.

2.7 A company only loses ‘small’ status under the Companies Act 2014 (and therefore the entitlement to audit exemption under Companies Act, 2014) if it does not satisfy the qualifying conditions in respect of two consecutive years. A medium company which was not qualified as a small company before, only qualifies as small if it satisfies two of the three qualifying conditions for small in two consecutive years.

A company in its first financial year qualifies to be classified as small if it meets two of the three qualifying conditions in respect of that first financial year.

Note however that none of the small company or small group audit exemption or the dormant company audit exemption are automatic; eligible companies must elect to avail of them and must give notification of that. See here for [CRO guidance](#) on the statement to be included on the balance sheet when claiming the exemption. See also below in Q 4 for the statement to be made on the balance sheet.

Readers are reminded that the audit exemption is optional, eligible companies should consider the fact that the members or other parties such as their bank may require an audit to be completed. The company’s eligibility for audit exemption is confirmed if

one month before the year end no member(s) representing not less than 10% of the voting rights (one member for a limited guarantee company) has written to the company requesting the company not avail itself of the exemption. Also, the eligible companies are required to notify their statutory auditors and obtain a notice from the statutory auditors (refer to Q 11). The companies need to assess in the subsequent financial year to determine whether they are still eligible for audit exemption.

Q3: My golf club is a company limited by guarantee. Can the company avail of audit exemption under the Companies Act 2014? If so, are there any conditions which the company must meet?

3.1 Section 1173 of Part 18 (Guarantee Companies) applies the requirements of Parts 1 to 14 to guarantee companies ('CLGs'), except to the extent they are disappplied or modified by that section or elsewhere in Part 18. Thus sections 358 to 365 on audit exemption are applied to CLGs.⁴

3.2 CLGs wishing to avail of audit exemption must, therefore, meet the same qualifying conditions as apply to companies limited by shares ('LTDs') – see question 2 above.

3.3 Section 1218(1) modifies the requirements of section 334 (which refers to shares of not less than one tenth of voting rights) such that any member of the CLG may serve notice in writing on the company that the member "does not wish the audit exemption to be available to the company in a financial year specified in the notice". In accordance with section 334, this notice may be served on the company either during the financial year preceding the financial year to which the notice relates, or during the financial year to which the notice relates, but not later than one month before the end of that year.

Q4: My client company intends to avail of the audit exemption under section 360 of the Companies Act 2014. Is there a requirement to make a statement on the balance sheet of the company?

4.1 Yes, there is a statement required by section 335 to the effect that:

- the company is availing itself of the audit exemption (and the exemption shall be expressed to be "the exemption provided for by Chapter 15 of Part 6 of the Companies Act, 2014").
- the company is availing itself of the exemption on the grounds that section 358 or 359, as appropriate, is complied with.
- no notice under subsection (1) of section 334 has, in accordance with subsection (2) of that section, been served on the company; and
- the directors acknowledge the obligations of the company, under the Companies Act, 2014, to:
 - keep adequate accounting records and prepare financial statements which give a true and fair view of the assets, liabilities, and financial position of the company at the end of its financial year and of its profit or loss for such a year; and
 - otherwise comply with the provisions of the Companies Act, 2014 relating to financial statements so far as they are applicable to the company.

4.2 Section 335(2) requires this statement to appear in the balance sheet in a position immediately above the signatures of the directors or, if abridged financial statements are being annexed to the annual return, immediately above the statement required by section 355 regarding the availing of the exemption to file such abridged accounts.

Q5: The company of which I am managing director meets the qualifying conditions for small and has done so in previous years also. The group we belong to is a large ROI group. Our company statutory financial statements have been audited in the past as we were told that the audit exemption in Ireland was not available to companies that were members of groups. I understand, however, that under the Companies Act 2014 there is an audit exemption for group companies. Can my company claim audit exemption for this year's statutory financial statements?

5.1 No, the audit exemption is not available to your company under Companies Act, 2014. You are correct that sections 359 and 360 introduce audit exemption for certain group companies. However, both the company in question and the group to which the company belongs must qualify as small in respect of the financial year and the preceding financial year. As a subsidiary of a large group, even though your company meets the qualifying conditions, the group to which your company belongs does not qualify as a small group, so the audit exemption is not available. Section 358(3) states

that section 360 does not apply to a company which is a group company unless the group qualifies as a small group.

5.2 The exception to the above would be if your company would qualify for the dormant company audit exemption in accordance with section 365 – see the response to question 7 below.

Q6: What are the audit exemption criteria for companies that are members of a group?

6.1 The company seeking to avail of audit exemption must itself qualify as small in respect of the financial year in question and not be excluded from availing of audit exemption by virtue of section 362 and Schedule 5 of the Companies Act 2014. Furthermore, there must not have been a notice served under section 334 (by members holding not less than one-tenth of the voting rights in the company).

6.2 As to its status as a 'group company' (defined as a holding company or a subsidiary company), section 358(3) states that audit exemption is not available to a company that at any time during the financial year was a group company **unless** the group qualifies under section 359 as a small group in relation to that financial year.

6.3 The qualifying conditions for a small group are set out in Section 280 B of the Companies Act, 2014 and are satisfied by a group in relation to a financial year in which it fulfils two or more of the following requirements:

- a) The aggregate amount of turnover⁵ of the group does not exceed €12 million net (or €14.4 million gross).
- b) The aggregate balance sheet total of the group does not exceed €6 million net (or €7.2 million gross).
- c) The aggregate average number of employees of the group does not exceed 50.

6.4 A group only loses 'small' status under the Companies Act 2014 if it does not satisfy the qualifying conditions in respect of two consecutive years.

6.5 Sections 274 - 277 of the Companies Act 2014 contain the interpretation and definition provisions. Section 280B (7) provides that the aggregate figures for turnover and balance sheet total shall be ascertained by aggregating the equivalent figures for turnover and balance sheet for each member of the group.

S280B (8) states that the aggregate amount of turnover and balance sheet total can be based on either "net" or "gross". Section 280B (11) further defines the meaning of "net" and "gross". See Section 280B (8) and section 280B (11) as below: -

Section 280B (8)

(8) Where a group proposes to satisfy the qualifying conditions referred to in subsection (4) on the basis of the requirements of paragraphs (a) and (b) of that subsection, it may do so on the basis of either the net figures or the gross figures respectively for both of the said paragraphs.

Section 280B (11)

(11) For the purposes of this section, in relation to the aggregate figures for turnover and balance sheet total—

"net" means after setoffs and other adjustments made to eliminate group transactions—

(i) in the case of Companies Act financial statements, in accordance with Schedule 4, and

(ii) in the case of IFRS financial statements, in accordance with international financial reporting standards;

"gross" means without those setoffs and other adjustments.

Pursuant to Section 280B (6) the turnover figure and balance sheet totals are proportionally adjusted for financial years which are not in fact a year.

6.6 Section 275 (1) defines balance sheet total as meaning in relation to a company the aggregate of the amounts shown as assets in the company's balance sheet. As stated above, section 280 B (7) provides that the aggregate balance sheet total of the group shall be ascertained by aggregating the balance sheet total for each member of the group.

6.7 'Average number of employees' is on a monthly basis (Section 280B (7) refers back to section 280A).

Section 334 Notice

6.8 An individual member of the group cannot avail of audit exemption where served with a notice in accordance with section 334 by members of the company holding not less than one-tenth of the voting rights in the company. Additionally, where the holding company is served with such a notice in accordance with section 334, the holding company and all other members of the group are not entitled to avail of audit exemption, irrespective of whether notice is served on one or more of the other members of the group.

Timely filing of annual returns

6.9 Section 364 requires that the annual returns of the holding company and all other members of the group must be filed on time in accordance with section 3431 in order for the holding company or any of the of the other members of that group to be able to avail of the audit exemption.

6.10 The holding company and other group members are not entitled to the audit exemption for the two following years where any group member fails to deliver an annual return in a financial year.

Q7: Can you explain the requirements for a dormant company to avail of audit exemption?

7.1 The dormant company audit exemption is not specific to small companies. In order to avail of the dormant company audit exemption, section 365(1) requires that the directors of the company be of the opinion that the company will satisfy the conditions set out in section 365. See paragraph 7.2. The decision to avail of audit exemption is to be recorded by the directors in the minutes of the meeting at which the decision is taken.

7.2 The conditions are that in respect of the year in question:

- a) The company has no significant accounting transaction, and
- b) The company's assets and liabilities comprise only permitted assets and liabilities.

7.3 "Significant accounting transaction" is defined within the section as a transaction that is required by sections 281 and 282 to be entered in the company's accounting records. Transactions specifically excluded from this term by section 365(8), which therefore do not trigger the audit obligation, are:

- (a) any transaction arising from the taking of shares in the company by a subscriber to the constitution as a result of an undertaking of his or her in connection with the formation of the company,
- (b) Any transaction consisting of the payment of -
 - (i) A fee to the Registrar on a change of the company's name.
 - (ii) A fee to the Registrar on the re-registration of the company;or
 - (iii) A fee to the Registrar for the registration of an annual return (including any fee of an increased amount by virtue of regulations under section 889(6)).

7.4 "Permitted assets and liabilities" are investments in shares of, and amounts due to or from, other group undertakings.

7.5 If a company holds a fixed asset such as property or has a bank account, a tax liability or any other non-group liability or contingent asset or liability, which do not fall within the definition of "permitted assets and liabilities", then in accordance with section 365(1) and (2) it would not meet the requirements to avail of the dormant company audit exemption, irrespective of having no transactions.

Q8: Which companies are excluded from availing of audit exemption irrespective of the size criteria?

8.1 The audit exemption is not available to the following types of company, irrespective of size:

- a) Public limited companies ("PLCs") - see section 1002 of Part 17 (which disapplies audit exemption for PLCs) and section 1117 which imposes the obligation on a PLC to have its financial statements audited.
- b) Public unlimited companies ("PUCs") - see section 1230 of Part 19 (which disapplies audit exemption for PUCs) and section 1272(2) which imposes the obligation on a PUC to have its financial statements audited.
- c) Public unlimited companies that have no share capital ("PULCs") - see section 1230 of Part 19 (which disapplies audit exemption for PULCs) and section 1272(3) which imposes the obligation on a PULC to have its financial statements audited.

d) Investment companies – see section 1387 of Part 24 (which disappplies audit exemption for investment companies). Section 1388 applies the provisions in Part 17 relating to PLCs to investment companies (with certain exceptions) and section 1002(4) of Part 17 disappplies audit exemptions for PLCs. So, investment companies must have their financial statements audited.

e) Pursuant to section 280A an “**ineligible company**” cannot qualify as a small company, thus cannot avail of the audit exemption. “**Ineligible entities**” is defined in section 275 and ineligible company is referenced in that definition. The definition of ineligible entities includes undertakings falling within any of the provisions of Schedule 5. The text of schedule 5 is provided below.

f) Companies to which section 362 applies. A “relevant securitisation company”, is defined in section 362(3).

Schedule 5

List of Companies for Certain Purposes of Act (including, in particular, sections 142, 350, 362 and 510)

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 or undertaking engaged in the business of accepting deposits or other repayable funds from the public and 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.

9. A company that is a management company, trustee, or custodian within the meaning of Part 24 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.

Q9: I am a voting shareholder in a small company limited by shares, and I understand that the directors intend to avail of audit exemption under the Companies Act 2014. I am concerned by this proposal and wish to ensure that an audit is carried out. Is there anything I can do?

9.1 The answer depends on the extent of your voting rights in the company. If you hold not less than one-tenth of the voting rights in the company, or you combine with other shareholders to reach a combined voting right of one-tenth, then you have the option of serving notice on the company in writing under section 334 that you do not wish the company to avail of the audit exemption.

9.2 This notice must be served on the company either during the financial year immediately preceding the financial year to which the notice relates, or during the financial year to which the notice relates, but not later than one month before the year end. The notice cannot be served retrospectively.

Q10: I am a member of a small company limited by guarantee and I understand that the directors intend to avail of audit exemption under the Companies Act 2014. I am concerned by this proposal and wish to ensure that an audit is carried out. Is there anything I can do?

10.1 Individual members of guarantee companies are entitled, by virtue of section 1218 (which applies section 334 to CLGs with modified wording), to serve notice on the company that you do not wish the company to avail of the audit exemption.

10.2 This notice must be served on the company either during the financial year immediately preceding the financial year to which the notice relates, or during the financial year to which the notice relates, but not later than one month before the year end. The notice cannot be served retrospectively.

Q11: Our client is availing of audit exemption under the Companies Act 2014 and has asked us to resign from the office of statutory auditor to the company. What needs to be done?

11.1 Section 399 governs the removal of a statutory auditor where a company has availed of audit exemption under the Companies Act 2014.

11.2 The company, having decided that the appointment should not be continued during the whole or part of a financial year in which the exemption is being availed of and to terminate the appointment, notifies the statutory auditor of the decision.

11.3 In accordance with section 399(1) and (2), the statutory auditor must, within 21 days after the date of having been so notified by the company of the decision, serve a notice on the company containing a statement either:

a) to the effect that there are no circumstances connected with the decision of the company referred to in *subsection (1)* that the statutory auditor concerned considers should be brought to the notice of the members or creditors of the company; or

b) a statement of any such circumstances as mentioned in *paragraph (a)*.

11.4 A copy of the abovementioned notice from the statutory auditor must then be sent, by the statutory auditor, within 14 days of serving the notice on the company, to the Registrar of Companies (CRO).

11.5 If the statement contained in the notice from the statutory auditor includes circumstances, which the statutory auditor considers should be brought to the attention of the members or creditors of the company, the company is obliged to send, within 14 days of receiving such notice, a copy of the notice to every person (including members of the company and holders of debentures) who is entitled under section 338 to receive the statutory financial statements, offices' report and statutory auditor's report.

11.6 There continues to be no requirement on the part of a statutory auditor, removed from office due to a company availing of audit exemption, to notify the Irish Auditing and Accounting Supervisory Authority (IAASA) of this removal. Such a duty to notify IAASA only applies, in accordance with section 403, where the statutory auditor is removed by ordinary resolution at a general meeting (under section 394) or where the

statutory auditor resigns from the office of statutory auditor to the company in accordance with section 400.

[1](#) Section 343 as amended by the Companies (Amendment) Act 2019 requires that the annual return be delivered to the Registrar not later than 56 days after the company's annual return date, or not later than 56 days after the date to which the annual return is made up, if earlier. Prior to the commencement date of the 2019 Act the annual return had to be made within 28 days.

[2](#) See also section 6 of Technical Release TR 02/2015 Companies Act 2014 Financial Reporting and Related Issues for further details. Note that section 275 has expanded the definition of 'turnover' 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. See section 275 for definition. Under IFRS, gross revenue derived from making or holding of investments is not considered as revenue.

[3](#) Directive 2013/34/EU

[4](#) CLGs which are credit institutions or insurance undertakings are excluded from availing of audit exemption by virtue of section 1211.

[5](#) See footnote 2.