

COMPANIES ACT 2014

COMPLIANCE POLICY STATEMENT

THE COMPANIES ACT 2014 SEES THE RETURN OF THE REQUIREMENT FOR AN ANNUAL COMPLIANCE STATEMENT IN THE DIRECTORS' REPORT.

History

The requirement for such a statement was first established in the Companies (Auditing and Accounting) Act 2003 but the applicable section was never enacted as the requirements were viewed to be overly burdensome.

As amended in 2004, the Central Bank Act 1997 empowers the Central Bank of Ireland (the financial regulator) to require a regulated financial services provider to provide to the Central Bank a compliance statement specifying whether the entity has, during the period specified in the Central Bank notice, complied with its "relevant obligations", or with such of its relevant obligations as are specified in the notice.

It was recommended that a diluted form of compliance statement would be more appropriate and as such the Companies Act 2014 is considerably less demanding than previous unenacted legislation and offers a more balanced approach to such a statement.

Who does it apply to?

The compliance statement requirement only relates to all public limited companies and private limited companies which, in the given financial year, had a balance sheet total greater than €12.5 million and turnover greater than €25 million.

The obligations do not apply to unlimited companies regardless of its financial scale.

What is required?

The directors of a company to which the requirement applies shall include in their directors' report an overall statement of responsibility acknowledging that they are responsible for securing the company's compliance with its relevant obligations under tax law and the Companies Act, in addition to any specific obligations linked to the company's sector or activities. The directors must confirm that this has been achieved or specify the reasons why it has not.

In addition, a compliance policy statement must be included in the directors' report setting out:

- the company's policies for respecting compliance with its relevant obligations;
- the arrangements or structures that have been put in place in order to secure 'material compliance' with the company's relevant obligations; and
- that a review had been conducted during the financial year of any arrangements or structures that have been put in place.

In order to discharge this compliance obligation, directors may rely on the guidance of a person (employee or consultant) who appears to have the required knowledge and experience to advise the company on compliance with its relevant obligations.

Failure to comply with compliance policy statement requirement is a criminal offence and each director to whom the default is attributable shall be guilty of a category 3 offence.

Conclusion

The reinstatement of the annual compliance policy statement confirms that it is the duty of directors to ensure compliance with The Companies Act 2014 once enacted.

How can BDO help?

Should you wish to discuss your business requirements and how you will be impacted by any aspect of the *Companies Act 2014* or if you have any queries in general please contact the **Corporate Secretarial Department** at +353 (0)1 470 0000.

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