



COMPANY SECRETARIAL AND COMPLIANCE

Corporate Governance in 2020: A look at the year ahead for Irish Companies

by **Liam Boyle, Elaine Hughes, James Carolan**

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2019 saw many changes in the company secretarial and corporate governance landscape in Ireland, the most significant of which was the introduction of the European Union (Anti- Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019, which for the first time placed a mandatory obligation on designated corporate entities to publicly disclose their beneficial ownership on a central register.

What changes are expected in 2020 and how might they affect Irish companies and their directors?

Establishment of the Corporate Enforcement Authority

It is expected that the Corporate Enforcement Authority will be established during 2020. The objective in establishing the Authority will be to redesignate the Office of the Director of Corporate Enforcement (ODCE) as a stand-alone agency, granting it enhanced power upon the Authority to enforce company law in Ireland and giving it more independence and control over its resources.

Obligation on directors of Irish companies to supply PPSN?

It is proposed to place an obligation on directors of Irish companies to supply their Personal Public Service Number (PPSN) when registering as a director of a company on the B10 form or when incorporating a new company using the A1 form.

The Companies Registration Office (CRO) is updating its systems and technology and it is expected that the provision of a PPSN (or equivalent) will become mandatory during 2020. It is intended that this will reduce the number of duplicate records that are currently held on the CRO's public register with the eventual aim being that there will be one record per individual registered as a director on the CRO. It is understood that, similar to how PPSNs are registered with the Central Register of Beneficial Ownership, that they will not be available for public viewing and are purely for verification purposes.

Changes to certain share capital provisions in the Companies Act 2014

Certain changes to share capital provisions in the Companies Act 2014 (2014 Act) as recommended by the Company Law Review Group are expected to come into effect in 2020, including:

1. Restoring a company's ability to use its share premium account for certain purposes including the writing off of its preliminary expenses.
2. Disapplying the requirement for unlimited companies to have sufficient distributable reserves to redeem their own shares.
3. Excluding a capital reduction from the definition of distribution under s.123 of the 2014 Act.

Changes to the filing process of annual returns

Although the Companies (Amendment) Act 2019 was signed into law in April 2019, it is not yet in force. It is expected to come into force in the second half of 2020. This will amend section 343 of the 2014 Act, providing for a 56-day period after the annual return date by which a company will have to file its annual return and financial statements with the CRO. Currently, companies must file their annual return within 28 days of the annual return date and they then have a further 28 days to file their financial statements. This is a welcome introduction and should serve to reduce the amount of unintentional late filings.

Impact of Brexit on corporate governance

The United Kingdom left the European Union on 31 January 2020 subject to a transitional period within which an agreement is to be negotiated between the UK and the EU. However, should such an agreement not be reached, UK resident directors may not be considered to be EEA resident for the purposes of section 137 of the 2014 Act.

In that scenario, any Irish company without an EEA resident director will have three options: put in place a non-EEA resident director bond; apply to the Revenue Commissioners for a certificate of a “Real and Continuous Link” to an economic activity in the state; or appoint a director who is resident in an EU27 country.

Central Register of Beneficial Ownership

Although companies had an initial deadline of 22 November 2019 to disclose their beneficial ownership, an ongoing obligation also exists whereby any registrable changes to the ownership or control of a company must be notified to the Central Register within 14 days of the change occurring.

Newly incorporated companies will also be required to disclose their beneficial ownership details within five months of their incorporation date.

If you have any queries in relation to any company secretarial matters which may affect your company, please [contact a member of our team](#).

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