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# Briefing

## Company Registers, Records and Returns



INSTITUTE OF DIRECTORS  
IN IRELAND

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The focus on transparency and accountability of companies has meant that the legal obligations on companies and directors in relation to accounting records and registers have never been so important. This factsheet looks at some of those legal obligations for directors to consider.

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### Maintaining adequate accounting records

The Companies Act 2014 (the “Act”) requires every company to record and keep details of payments made to or by it and to record its financial position. The Act increases significantly the penalties for failure by a company to keep adequate accounting records. For example, where such a failure has contributed to the company's inability to pay its debts, the offence is punishable by a maximum fine of €500,000 and / or a maximum term of imprisonment of 10 years.

Adequate accounting records are essential to the company's preparation of annual financial statements which must give “a true and fair view” of the company's financial position.

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### Filing annual financial statements

#### *Annual Return Date*

Unless exempt from doing so, a company must file its annual financial statements together with relevant documentation in the Companies Registration Office (the “CRO”) together with the company's annual return which must be filed by its annual return date (“ARD”). It is vital to know your company's ARD and further information on this is available here. Annual returns must be completed and filed electronically.

#### *Penalties and Exemptions*

Failure to file an annual return on time will lead automatically to penalties and the loss of any audit exemption to which the company might have been entitled. Persistent failure to file annual returns can lead to further enforcement action such as the company being involuntarily struck off the register.

Certain categories of company are exempt from the obligation to file their financial statements with the CRO but the number of such categories is reducing. The Companies (Accounting) Act 2017 amended the Act so that it is more difficult for a private unlimited company to avail of the filing exemption. Further information is available [here](#).

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## The company's registers

### *Statutory Registers*

The Act imposes a legal obligation on Irish companies to maintain registers and records. These include:

- minute books recording the proceedings at general meetings, board meetings and meetings of board committees;
- a register of the members (past and present);
- a register of directors and secretaries (past and present);
- a register of directors' and secretaries' interests in shares or debentures in the company or in related companies; and
- a register of any charges on the assets of the company.

All registers need to be accurate and up-to-date. The registers should be kept at the company's registered office, or if held elsewhere in the State, the Act requires in certain cases that the CRO is informed.

Failure to maintain any of these registers is an offence but it can also lead to other offences under the Act or inefficient corporate governance: for example, the register of members is an important document because it is the primary means by which a company can identify its members, whom the company are obliged to inform of members' meetings and to whom the company must circulate financial statements and related documentation.

### *Minute Books*

The Act provides that board minutes should be entered into the books as soon as may be after the appointment of an officer, the meeting has been held or the resolution has been passed. Although minutes are principally for the benefit of the company or board itself and for the company's members, they may also be inspected by regulators. For example, the Act empowers the Director of Corporate Enforcement to require a company to produce its minutes of meetings and must allow the Director to inspect those books and to make copies.

## Beneficial ownership information

### *Company Register*

With limited exceptions, a company must maintain an internal register of those natural persons (each a “**Beneficial Owner**”) who ultimately control the company through direct or indirect ownership (this is assumed to be the case if any individual(s) directly or indirectly, own(s) or control(s) greater than 25% of the shares or ownership interests in the company. Notification provisions require a company to confirm its beneficial ownership with the suspected beneficial owner(s), and certain particulars must then be displayed in a register.

Where no individual(s) meet the criteria of beneficial owner, the law provides that the company must populate the register with the details of its Senior Managing Officials (this term includes the directors and the CEO).

### *Central Register*

In addition a company must within 5 months of incorporation provide information on beneficial owners to a central Register of Beneficial Owners (“**RBO**”) kept by the Registrar of Companies and thereafter update this as and when applicable. State authorities, financial institutions and the public have certain access rights to the RBO.

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## General

The duties of a company secretary under the Act include filing annual returns and all supporting documentation. Other duties include maintaining the company’s statutory registers and books. However, the company secretary is no longer responsible for the company’s compliance with the Act.

Rather, the *directors* are responsible for ensuring that the relevant company complies with the Act and this includes many of the statutory obligations described above. A director should also be mindful of his or her statutory duty to ensure that a suitably qualified secretary is appointed to deal with these important filings and maintaining the statutory registers.

*Further information is available from*



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