

# Company Law Update and Outlook 2025

With Paul Heffernan, Consultant,  
McCann FitzGerald LLP

24<sup>th</sup> February 2025

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# Key Company Law Updates from 2024

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## Core Updates:

- Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024
- Screening of Third Country Transactions Act 2023

## Other 2024 Legislation of note:

- Employment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Act 2024
- European Union (Corporate Sustainability Reporting) Regulations 2024
- European Union (Adjustments of Size Criteria for Certain Companies and Groups) Regulations 2024
- Euronext: Irish Corporate Governance Code

## Outlook for 2025:

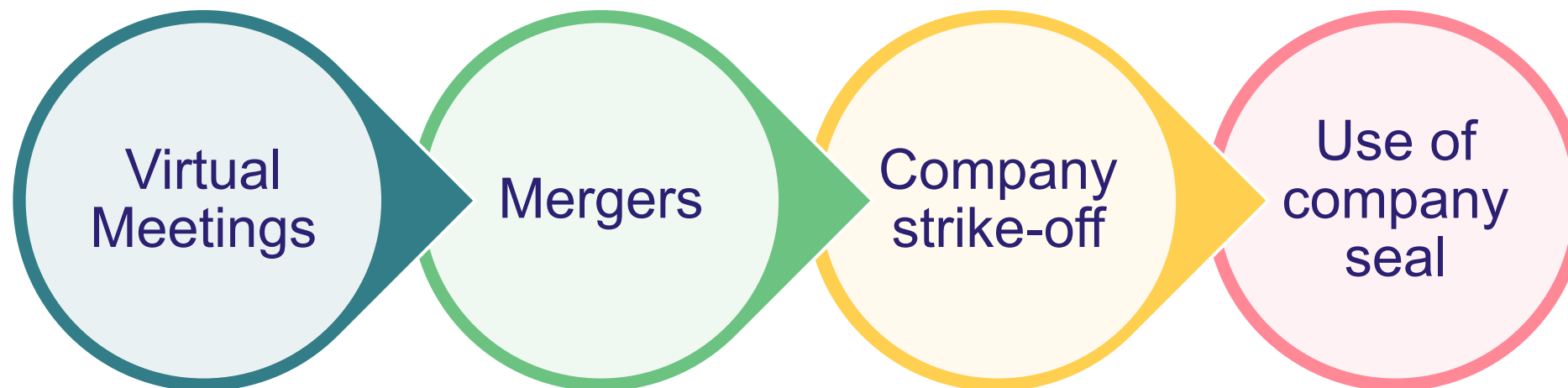
- European Union (Corporate Sustainability Reporting) – “CS3D”
- Scheme for Bill for Limited Partnerships and Business Names (published July 2024)
- Gender Balance Directive

# Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024

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- Commenced in part on 3 December 2024, including:



See our detailed briefing here:  
**[“Company Law – Changes are Enacted”](#)**

# Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024 (Cont'd)

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## Virtual General Meetings:

- A Covid-19 period ability for companies to hold virtual or hybrid general meetings is now on a permanent statutory footing (a company can expressly opt out)
- A company has the ability to conduct general meetings wholly virtually, with all attendees participating online without a requirement for a physical meeting location, or by a hybrid meeting with participants participating both virtually and in-person. Such online participants are deemed present at the meeting
- A chairperson has the ability to adjourn the meeting if the failure of the electronic communication platform interferes with proceedings of the meeting
- Resolutions can only be voted upon by hand if the chairperson can identify those entitled to vote and can verify the content of the voting instructions given by online participants



# Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024 (Cont'd)

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## Mergers

- The process whereby two private companies can merge so that the assets and liabilities (and corporate identity) of one are transferred by operation of law to the other, before the former is dissolved, has been amended to provide that one of the companies must be either an LTD or a DAC. Previously one entity had to be an LTD
- A group of private limited subsidiary companies that are wholly-owned by the same parent company is now able to take part in a merger by absorption in one transaction rather than (previously) in several transactions



# Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024 (*Cont'd*)

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## Company Strike off

- New grounds introduced for the involuntary strike-off of a company by the Registrar of Companies, namely on the grounds of:
  - a. failure to deliver notice of change of the situation of the company's registered office;
  - b. there not being any current company secretary of the company recorded in the Companies Registration Office; and
  - c. failure to notify the Registrar of Beneficial Ownership of certain information in relation to the beneficial owner of a company

# Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024 (Cont'd)

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## Use of company seal

- Re-instatement on a permanent basis of a mechanism (first introduced as s43A to 2014 Act under Covid-19-related legislation) to enable documents under seal to be executed in different counterparts, with the aggregate of the documents to be considered as one instrument
- Instead of the company seal and authorised signatures being applied to the same page, the seal and each of the signatures can appear on “several documents in like form”, which will be taken together to constitute one “instrument”
- When s43A applied this firm took the view:
  - a) if constitution allowed seal be used with one signature, s43A required two signatures
  - b) that you didn’t need to have 3 instruments separately executed to be able to avail of s43A, two sufficed



# Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024 (*Cont'd*)

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*These sections have not yet commenced:*

## **SAP Declarations to be Prescribed**

- A copy of various declarations that must be made where a company is using the summary approval procedure under the 2014 Act will have to be delivered to the Registrar in the prescribed form

## **Small company audit exemption**

- A company that qualifies as a small company will not be entitled to an audit exemption where it fails to deliver, for a second or subsequent time within a period of five consecutive years, an annual return. Currently the exemption is lost if any annual return is not filed on time



# Screening of Third Country Transactions Act 2023

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- Enacted in October 2023, commenced on 6 January 2025
- **A new mandatory notification regime** for transactions involving qualifying foreign acquisitions of Irish targets
- Transactions cannot be completed until a screening decision has been issued by the Minister (criminal consequences involved)
- The Act sets out **thresholds for mandatory notification**, however the Minister is entitled to **call-in** for review certain transactions outside those thresholds and can review transactions that have completed within 15 months of 6/1/2025



See our detailed briefing here:

["Irish Foreign Investment Screening Regime Now Operational"](#)

# Screening of Third Country Transactions Act 2023 (Cont'd)

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## Mandatory notification regime

- Obligation to notify qualifying transactions to the Minister:
  - Notification prior to completion
  - 'Standstill' obligation
  - Review period of 90 days from issuance of screening notice, extendable to 135 days
  - Outcomes: clearance, deemed clearance, directions (divestments, behavioural remedies), prohibition



## Call-in regime

- Minister may also 'call in' for review acquisitions by non-EEA/Swiss investors of Irish targets which do not satisfy the thresholds for mandatory notification but which give rise to security or public order concerns

# Screening of Third Country Transactions Act 2023:

## Thresholds for Mandatory Notification

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	Threshold	Guidance
1.	The transaction relates to an undertaking or asset in the State	<ul style="list-style-type: none"><li>• <b>Undertaking in the State:</b><ul style="list-style-type: none"><li>• constituted or governed by the laws of the State, or</li><li>• has its principal place of business in the State</li></ul></li><li>• <b>Asset in the State:</b><ul style="list-style-type: none"><li>• <b>For tangible assets:</b> physically located in the State</li><li>• <b>For intangible assets:</b> owned, controlled or otherwise in the possession of an undertaking in the State</li></ul></li></ul>
2.	A third country undertaking or a connected person either: (a) acquires control of an asset/undertaking in the State ( <b>“Control Test”</b> ) (b) changes the percentage of shares or voting rights it holds in an undertaking in the State from 25% or less to more than 25%, or from 50% or less to more than 50% ( <b>“Shareholding Test”</b> )	<ul style="list-style-type: none"><li>• <b>Third country:</b> jurisdiction other than an EU or EEA Member State or Switzerland</li><li>• <b>Third country undertaking:</b><ul style="list-style-type: none"><li>• constituted or otherwise governed by the laws of a third country,</li><li>• controlled by at least one director, partner, member or other person, that is an undertaking constituted or otherwise governed by the laws of a third country or is a third country national; or</li><li>• a third country national</li></ul></li><li>• <b>Connected person</b> includes EEA/Swiss-incorporated company with a foreign controller</li></ul>

# Screening of Third Country Transactions Act 2023:

## Thresholds for Mandatory Notification (*Cont'd*)

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	Threshold ( <i>continued</i> )	Guidance ( <i>continued</i> )
3.	Value of transaction and connected transactions is at least €2,000,000	<ul style="list-style-type: none"><li>The €2 million threshold relates to the <b>consideration</b> being paid by the acquiring party, <b>including any international dimension</b> that might include assets or undertakings not located in the State</li></ul>
4.	Same undertaking does not control all parties to transaction	<ul style="list-style-type: none"><li><b>Intra-group transactions</b> do not require notification</li></ul>
5.	Transaction relates to, or impacts upon: <ul style="list-style-type: none"><li>i. critical infrastructure whether physical or virtual,</li><li>ii. critical technologies and dual-use items,</li><li>iii. supply of critical inputs,</li><li>iv. access to sensitive information, or</li><li>v. freedom and pluralism of the media.</li></ul>	<ul style="list-style-type: none"><li>It is the activity of the <b>target</b> that is the focus for these purposes</li><li><b>Critical infrastructure:</b><ul style="list-style-type: none"><li>defined in accordance with EU Directive 2022/2557 on the resilience of critical entities, and</li><li>includes energy, transport, water, health, communications, media, data processing or storage, aerospace, defence, electoral or financial infrastructure, and sensitive facilities, as well as land and real estate crucial for the use of such infrastructure</li></ul></li><li><b>Critical technologies and dual use items:</b> Items set out in Annex 1 of EU Regulation 2021/821 or equipment covered in the Council Common Position 2008/944/CFSP</li></ul>

# Employment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Act 2024

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Update on law on collective redundancies and greater information and consultations rights for employees. Establishment of Employment Law Review Group



A less restrictive test is introduced for a contribution order. The requirement to establish that the circumstances that gave rise to the winding up of the company are attributable to the acts or omissions of the related company is no longer a necessary condition



Previously, for a transaction to be considered an unfair preference, it must have occurred within six months of the date of the commencement of the winding up of the company, or within two years for connected persons. Under the Act, the Court may consider acts falling outside these limits



The Court has the power to order the return of assets which were improperly transferred. Under the revised wording, payments made in the ordinary course of business are not captured by the set aside provision

# Employment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Act 2024 (*Cont'd*)

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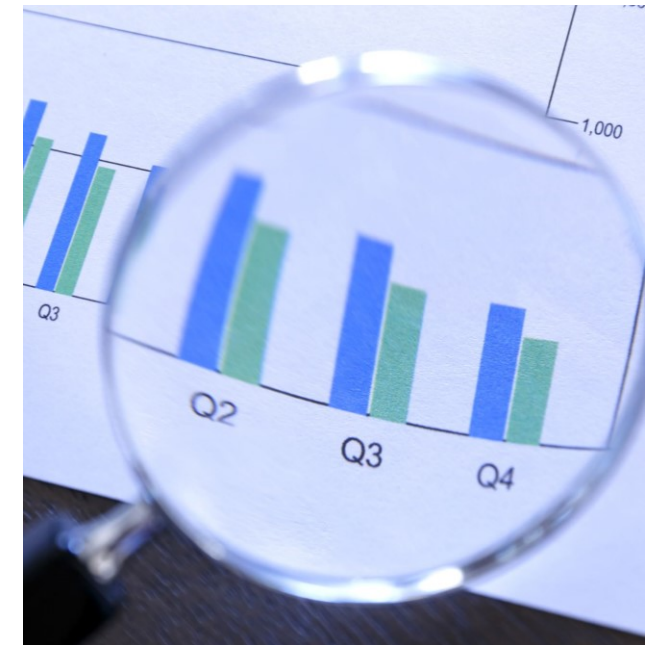
Four key changes are made to the reckless trading test:

- The subjective test of whether an officer of the company was “**knowingly**” a party to the carrying on of the business in a reckless manner is replaced by an objective test which does not require any intention on the part of the officer
- The timeframe of an **unfair preference**, arising in a contract within six months of the date of the commencement of the winding up of the company, or within two years for connected persons, has been amended so that the Court may consider acts falling outside these limits
- Previously, an officer of the company is deemed to have been **recklessly trading** if they ought to have known their actions would cause loss. The new text states that an officer may be found to have been recklessly trading if they ought to have known their actions would be likely to cause loss
- The defence of **acting honestly and responsibly** is replaced by the defence of taking such reasonably practicable steps as the officer ought to have taken to minimise loss

# The European Union (Corporate Sustainability Reporting) Regulations 2024

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- The Corporate Sustainability Reporting Directive (the “**CSRD**”) was transposed into Irish law by the European Union (Corporate Sustainability Reporting) Regulations 2024, as amended (the “**Irish CSRD Regulations**”), amending the Companies Act 2014 and the Transparency Regulations 2007, with effect from 6 July 2024
- For in-scope companies, the directors’ report that accompanies the company’s annual financial statements must include a clearly identifiable section containing:
  - information necessary to understand the company’s impacts on sustainability matters (“inside-out impacts”); and
  - information necessary to understand how the sustainability matters affect the company’s development, performance and position (“outside-in impacts”)
- This information must comply with Part 28 of the Companies Act 2014





# The European Union (Corporate Sustainability Reporting) Regulations 2024 (*Cont'd*)

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To enhance consistency and comparability, sustainability information must be reported in accordance with the European Corporate Sustainability Reporting Standards (ESRS).

The sustainability report must be accompanied by an assurance opinion from a statutory auditor or statutory audit firm and based on a limited assurance engagement

Pursuant to the Irish CSRD Regulations, the sustainability reporting regime will apply on a phased basis to Irish-incorporated companies and to issuers of securities on an EU regulated market, as set out below





# The European Union (Corporate Sustainability Reporting) Regulations 2024 (*Cont'd*)

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## For financial years starting on or after 1 January 2024

### Companies

- to a large company with an average number of employees that exceeds 500, and that is a public-interest entity
- to a large company that is a holding company of a group with an aggregate average number of employees that exceeds 500, and that is a public-interest entity
- excluding a company that is a small and non-complex institution or a captive (re)insurance undertaking

### Issuers

- to a large undertaking with an average number of employees that exceeds 500
- to a parent undertaking of a large group with an aggregate average number of employees that exceeds 500

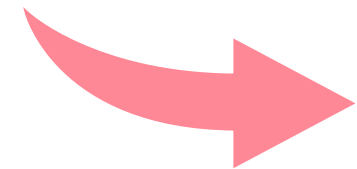
## For financial years starting on or after 1 January 2025

### Companies

- to any other large company (excluding a company that is small and non-complex institution or a captive (re)insurance undertaking)

### Issuers

- to other large issuers and parent undertakings of large groups



# The European Union (Corporate Sustainability Reporting) Regulations 2024 (*Cont'd*)

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## For financial years starting on or after 1 January 2026\*

### Companies

- to a small company or a medium company (but not a micro company) that is an issuer;
- to a small and non-complex institution or a captive (re)insurance undertaking that is (i) a large company, or (ii) a small company or a medium company (but not a micro company) that is an issuer

### Issuers

- to issuers that are small and medium-sized undertakings (but not micro-undertakings) or
- to issuers that are small and non-complex institutions or captive (re)insurance undertakings, provided they are large undertakings or small and medium-sized undertakings with transferrable securities admitted to trading on an EU regulated market

*(\*Note: limited sustainability reporting permitted for entities)*

## For financial years starting on or after 1 January 2028

### Subsidiary Company

- to an in-scope Irish-incorporated subsidiary of a third country undertaking with net turnover (at group level or, if not applicable, individual level) of more than €150m for the two preceding consecutive financial years

### Branch

- to the Irish branch of a third-country undertaking where
  - a. the Irish branch generated net turnover of more than €40m in the preceding financial year
  - b. at a group level (or if not applicable an individual level), the third-country undertaking generated net turnover of more than €150m in the EU for the two preceding consecutive financial years and
  - c. the third-country undertaking is not part of a group or is a subsidiary of another third-country undertaking, and does not have an applicable subsidiary (as described above)

# The European Union (Corporate Sustainability Reporting) Regulations 2024 (*Cont'd*)

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## Possible Concerns?

Concern has arisen that certain companies are deemed to be “large companies” (and, therefore, within scope of the reporting requirements introduced by the Irish CSRD Regulations), even if they do not meet the relevant employee, turnover and balance sheet criteria

These include (amongst others):

- public limited companies;
- companies carrying on business required to be authorised by the Central Bank of Ireland; and
- credit institutions, insurance undertakings and undertakings with transferable securities admitted to trading on an EU regulated market

This arises from the Companies Act 2014’s definition of “ineligible entities” and the exclusion of such entities from qualifying as a small (holding) company or a medium (holding) company and the automatic deeming of any entity that does not qualify as such as a “large company” (under section 280H Companies Act 2014)

# European Union (Adjustments of Size Criteria for Certain Companies and Groups) Regulations 2024

The size criteria for certain companies and groups have been amended as set out below. Other conditions, which require to be satisfied in each case to qualify as a particular type of company (such as the obligations to form an audit committee or to prepare a directors' compliance statement), have not been altered

The new thresholds may apply to financial years beginning on or after 1 January 2024, but a company may elect to apply them to a financial year beginning on or after 1 January 2023

Adjustments of Size Criteria for Certain Companies and Groups			
Company must not exceed two of three criteria for current and preceding year			
Micro Company			
Period	Turnover	Balance Sheet Total	Employees
Before 1 July 2024	€700,000	€350,000	Max 10
From 1 July 2024	€900,000	€450,000	Max 10
Small Company			
Period	Turnover	Balance Sheet Total	Employees
Before 1 July 2024	€12 million	€6 million	Max 50
From 1 July 2024	€15 million	€7.5 million	Max 50
Small Group			
Period	Turnover	Balance Sheet Total	Employees
Before 1 July 2024	€12 million net (or €14.4 million gross)	€6 million net (or €7.2 million gross)	Max 50
From 1 July 2024	€15 million net (or €18 million gross)	€7.5 million net (or €9 million gross)	Max 50
Medium Company			
Period	Turnover	Balance Sheet Total	Employees
Before 1 July 2024	€40 million	€20 million	Max 250
From 1 July 2024	€50 million	€25 million	Max 250
Medium Group			
Period	Turnover	Balance Sheet Total	Employees
Before 1 July 2024	€40 million net (or €48 million gross)	€20 million net (or €24 million gross)	Max 250
From 1 July 2024	€50 million net (or €60 million gross)	€25 million net (or €30 million gross)	Max 250
Large Company			
Criteria	The default category: any company that does not qualify as a micro company, a small company or a medium company.		

- Euronex Dublin has published the first Irish Corporate Governance Code which sets out a series of principles aimed at guiding companies in their governance practices and more detailed provisions that support the application of the principles
- The Code applies to Irish incorporated companies with an equity listing on Euronext Dublin for financial years commencing on or after **1 January 2025**. Where a company is dual-listed in both Ireland and the UK, it is permitted to follow the new Code or the UK Corporate Governance Code
- Companies subject to the UK Listing Rules are required to report against the UK Code

***See our detailed briefing here:  
[“Briefing: Introduction of Irish Corporate Governance Code”](#)***

# Outlook for 2025

- Corporate Sustainability Due Diligence Directive (“CS3D”)
- Scheme for Bill for Limited Partnerships and Business Names (published July 2024)
- Gender Balance Directive

## Go Further





- To be transposed by July 2026 with phased introductions over coming years based on size criteria. Member State push back at EU level
- Applies to a company’s own operations, and of its subsidiaries and value chains
- Introduction of civil liability regime: companies may be liable for breaching their due diligence obligations and their victims will have the right to be compensated for damages
- Compliance with due diligence obligations can be used as part of the award criteria for public and concession contracts



# Corporate Sustainability Due Diligence Directive (“CS<sub>3</sub>D”) (Cont’d)

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- ❖ Proposed scope **narrower** than that of CSRD:
  - ❖ Requires in-scope companies (1,000 employees, turnover €450m) to:
    - ✓ to integrate due diligence into their policies and risk-management systems;
    - ✓ mitigate negative human rights and environmental impacts; adverse impacts are defined by reference to annexed international instruments;
    - ✓ establish and maintain a complaints procedure, and to monitor the effectiveness of procedures;
    - ✓ report under CSRD or otherwise publish annual statements on their websites
- ❖ Larger companies required to adopt climate transition plans
- ❖ EU Member States to designate NCAs responsible for enforcement which will be able to launch inspections and investigations and impose penalties on non-compliant companies, including “naming and shaming” and fines



# General Scheme of Registration of Limited Partnerships and Business Names Bill 2024

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The **General Scheme, when enacted**, will repeal and replace the Limited Partnerships Act 1907 and the Registration of Business Names Act 1963 to provide for modern business practices and a robust, transparent and fit for purpose regulatory framework for those engaged in business using a business name or the limited partnership model

These objectives will be achieved by:

- additional information and reporting requirements;
- additional powers for the Registrar consistent with those for companies to ensure the integrity of the Registers are upheld; and
- enhanced enforcement and compliance provisions,

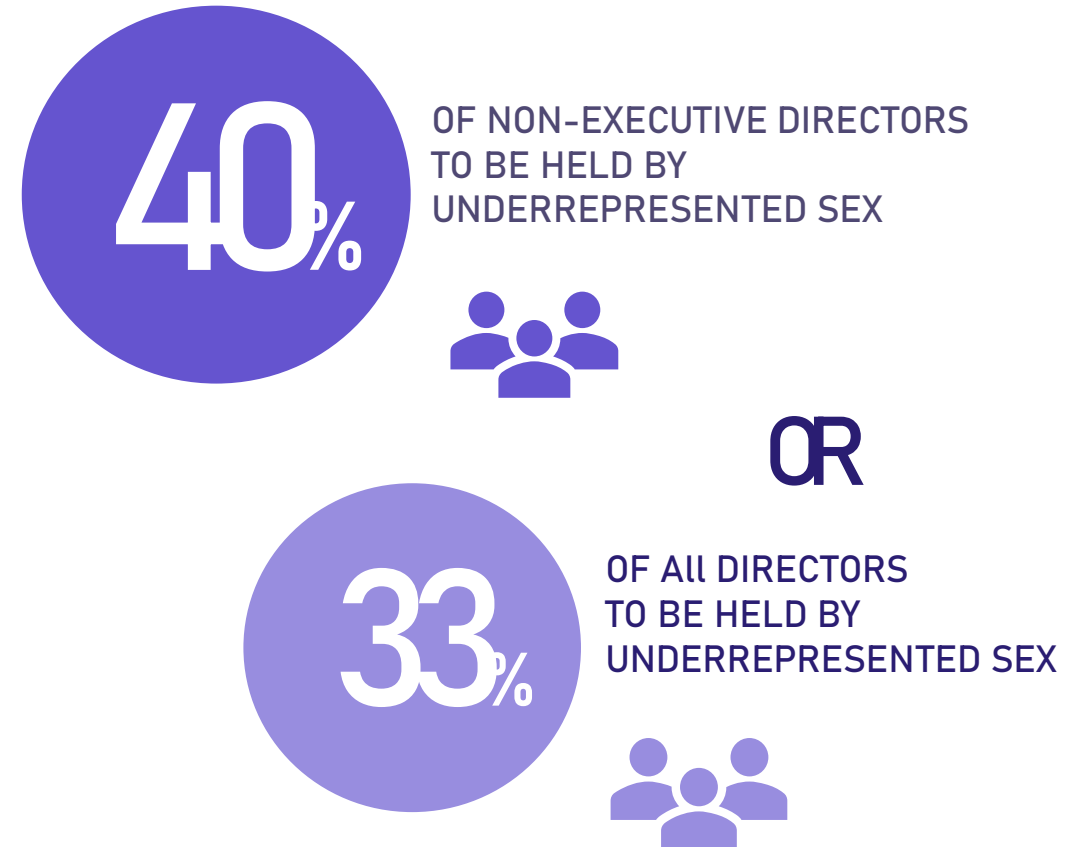
whilst retaining the nature of the limited partnership framework

***The General Scheme is [available here](#).***

# Directive (EU) 2022/2381 on improving the gender balance among directors of listed companies and related measures

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- To be implemented by **28 December 2024** – Ireland has not yet implemented this Directive.
- EU listed companies
- A minimum either 40% of all non-executive director positions or 33% of all director positions are held by the "underrepresented sex" (to use the EU's term) by **30 June 2026**
- "effective, proportionate and dissuasive" penalties for non-compliant companies



# Corporate Enforcement Authority: First Annual Report Published (2023-2024)

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The CEA's first Annual Report was published in June 2024 and provides a review of all steps taken to establish the Authority's presence

The Report records the first 18 months of the CEA's existence through to 31 December 2023

## In that timeframe, the CEA:

- secured the restriction of 80 company directors and the disqualification of a further 27 company directors based on liquidator reports;
- secured 107 court orders and 5 search warrants;
- took 213 witness statements; and
- effected 12 arrests



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Údarás um Fhorfheidhmiú Corparáideach  
Corporate Enforcement Authority

# Corporate Enforcement Authority:

## Strategy Statement 2022 - 2025

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### “The Three Pillars”

Pillar One	Pillar Two	Pillar Three
<b>1.1</b> Embedding governance structures and organisational values	<b>2.1</b> Empowering stakeholders	<b>3.1</b> Operating a system of supervision of corporate insolvency
<b>1.2</b> Building operational capability	<b>2.2</b> Responding to evolving issues	<b>3.2</b> Operating an effective system of proportionate, robust and dissuasive enforcement
<b>1.3</b> Establishing presence	<b>2.3</b> Influencing, advising and engaging in Thought leadership	<b>3.3</b> Ensuring individual accountability

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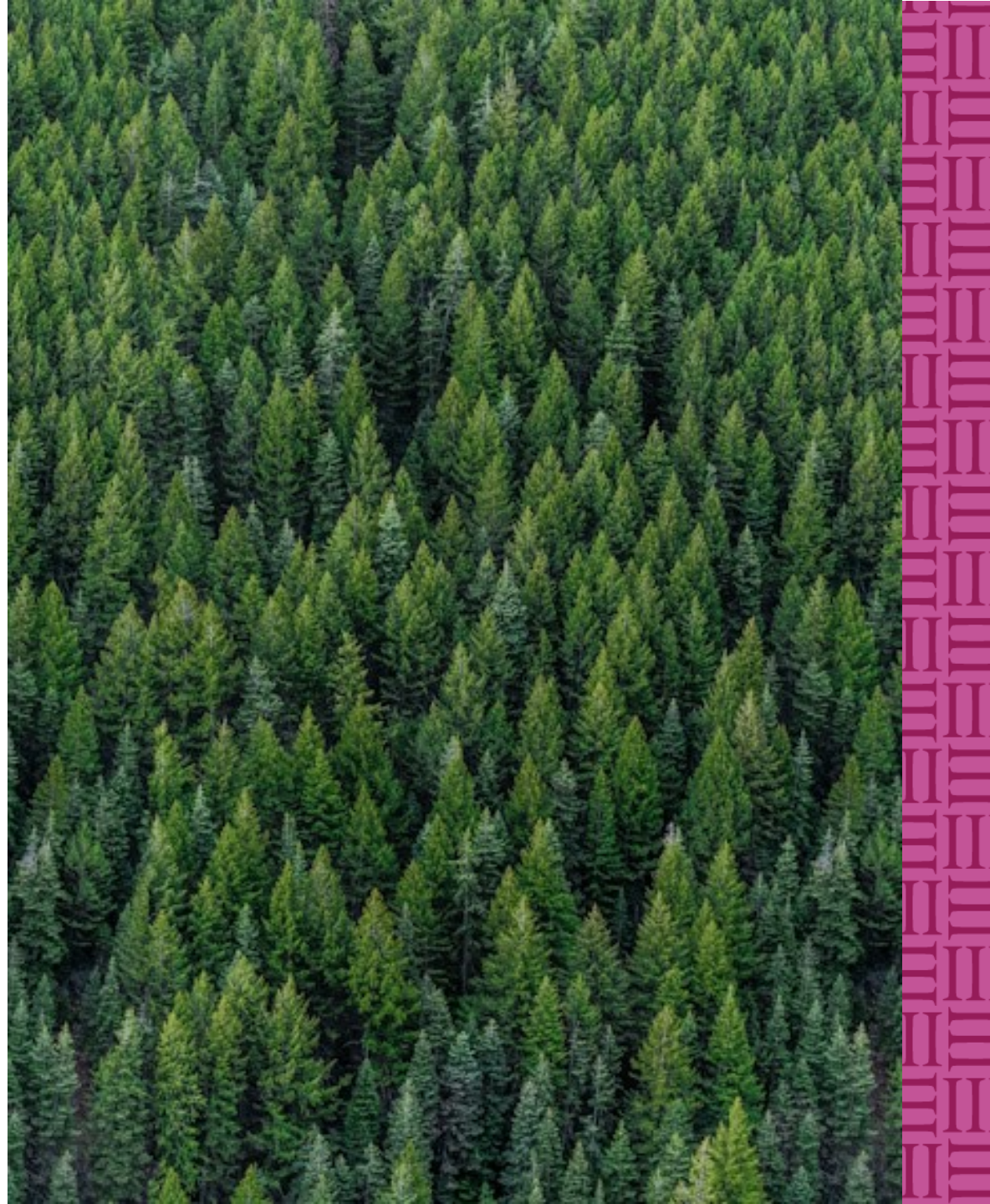


# ESG Fundamentals for Directors

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# Digital Governance: AI, Cyber Security and Privacy

With Valarie Lyons, Company Secretary and  
Chief Operating Officer, BH Consulting

09:30-10:30am | 20<sup>th</sup> March 2025

Webinar





# Company Law Update and Outlook 2025

With Paul Heffernan, Consultant,  
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