



Oifig an Stiúrthóra um
Fhorfheidhmiú Corparáideach

Office of the Director
of Corporate Enforcement

ODCE Information Notice I/2012/2

Companies (Amendment) Act 2012

Introduction

Pursuant to its remit of encouraging compliance with company law, the Office of the Director of Corporate Enforcement has prepared a short summary of the scope of the Companies (Amendment) Act 2012 (the 2012 Act) which amends Sections 1 and 2 of the Companies (Miscellaneous Provisions) Act 2009 (the 2009 Act). The 2012 Act amends the regulations that allow certain parent companies use US generally accepted accounting principles by extending the timeframe to **31 December 2020**.

Section 1 – is solely made up of a definition of the 2009 Act.

Section 2 – amends section 1 of the 2009 Act. That section introduced regulations that allowed certain parent companies to use US generally accepted accounting principles (US GAAP) until 31 December 2015. The 2012 Act extends the scope of that Act to allow companies that have been using US GAAP under the 2009 Act to continue to do so for accounting periods up to those ending not later than 31 December 2020.

In addition new companies which would have been eligible under the 2009 Act to use US GAAP may also do so for accounting periods up to those ending not later than 31 December 2020.

Under the 2009 Act, such companies must have previously been registered with or subject to the US Securities and Exchange Commission, must not have securities traded on a regulated market¹, and must not have previously been required to make an annual return to the registrar of companies with accounts annexed. The companies must disclose their use of these principles in a note to the accounts.

Section 3 – amends section 2 of the 2009 Act. That section allowed the Minister to make regulations covering accounting standards for specific categories of parent undertakings, that

¹ Regulated market” has the same meaning as Directive 2004/39/EC of the European Parliament. The definition in Article 4(14) of the Directive states that a “regulated market” means a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments – in the system and in accordance with its non-discretionary rules – in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and /or systems, and which is authorised and functions regularly in accordance with the provisions of Title III.

is, those that do not have securities admitted to trading on a regulated market. The 2009 Act allowed such undertakings to avail of the transitional accounting arrangements (see Appendix I) for the first four financial years after incorporation up to 31 December 2015.

The Act of 2012 amends these regulations by removing the reference to the first four years and extending the timeframe for accepting the transitional accounting arrangement to **31 December 2020**.

Section 4 – describes the name of the Act and states that this Act shall be read as one with the Companies Acts. Therefore, the Companies Acts should henceforth be referred to as the Companies Acts 1963-2012.

Transitional Accounting Arrangements

The transitional accounting arrangement will allow parent undertakings, in complying with the Companies Acts, to submit individual accounts or group accounts provided they give a true and fair view of the state of affairs and profit or loss of the undertaking (and in the context of group accounts, of its subsidiaries);

The regulations shall:-

- (a) specify the accounting standards, which shall be internationally recognised and generally accepted accounting principles or practice of a jurisdiction –
 - where a majority of the subsidiaries have a substantial connection, or
 - the location of the primary stock trading market of the parent undertaking
- (b) specify the number of financial years in respect of which the regulations apply, and the date on which the last financial year will end, which cannot be later than **31 December 2020**, and
- (c) provide that such financial statements cannot contravene the Companies Acts or any related regulations.

If accounts have been prepared in accordance with such a regulation, the notes to the accounts should contain a statement to that effect.