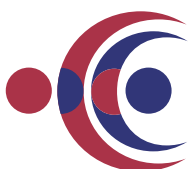
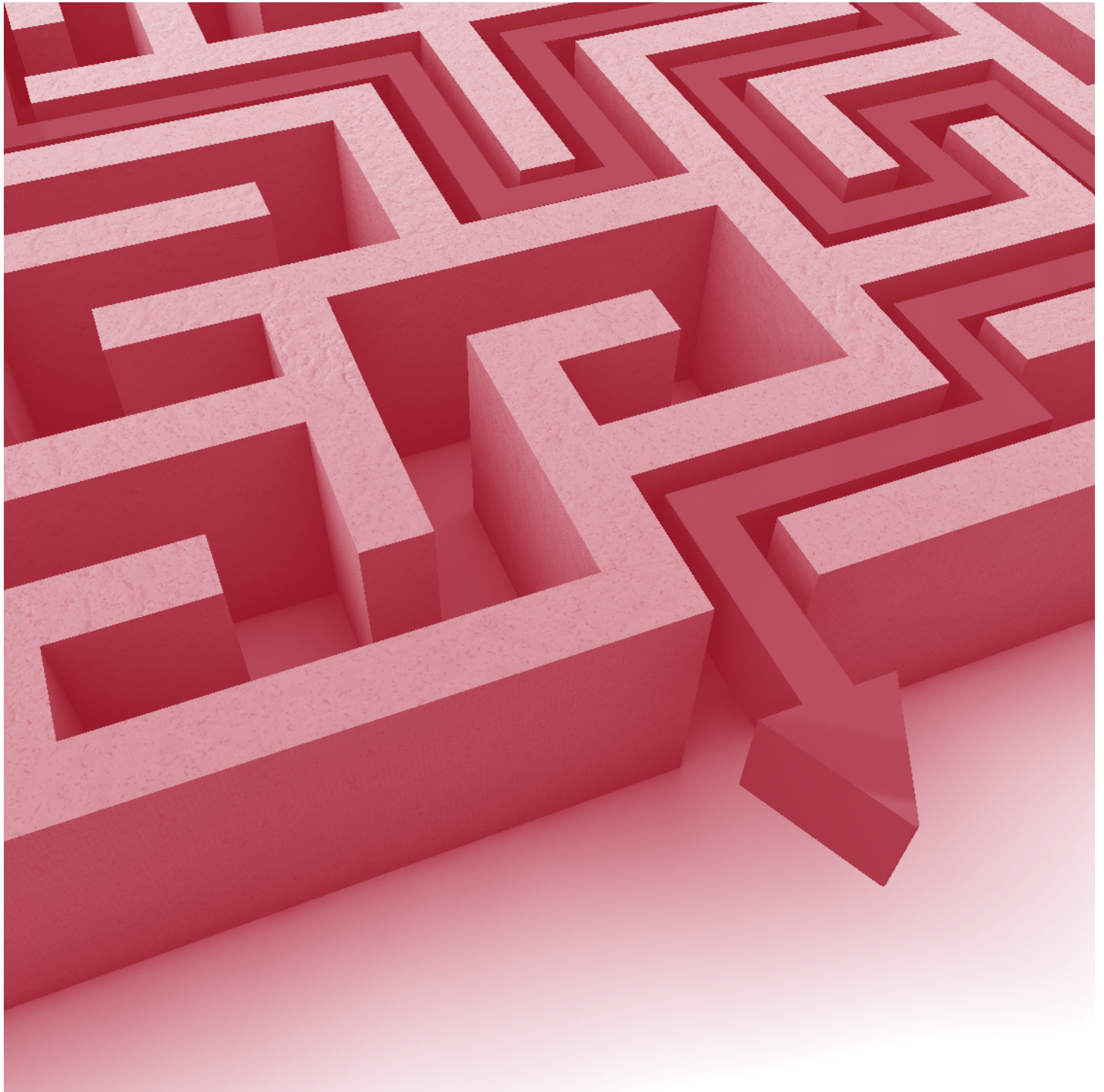


# ANNUAL REPORT

Office of The Director of Corporate Enforcement

2013



Oifig an Stiúirthóra um  
Fhorfheidhmiú Corparáideach

Office of the Director  
of Corporate Enforcement

For further information contact:

**Office of the Director of Corporate Enforcement,**

16 Parnell Square,  
Dublin 1.

Tel: 01 858 5800

Lo-call: 1890 315 015

Fax: 01 858 5801

Email: [info@odce.ie](mailto:info@odce.ie)

Web: [www.odce.ie](http://www.odce.ie)

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# DIRECTOR'S INTRODUCTION



## DIRECTOR'S INTRODUCTION

### Introduction

In accordance with the provisions of section 16(1) of the Company Law Enforcement Act 2001, I am pleased to submit the Office's 2013 Annual Report to the Minister for Jobs, Enterprise & Innovation, Mr. Richard Bruton, TD.

### Enforcement principles

In last year's Annual Report, my first since taking up this position, I indicated that, having regard to a range of relevant factors - including the non-discretionary nature of the section 56 process and the consequential implications for other, discretionary, workstreams - we must seek to apply our available resources in the most effective manner possible.

In that context, and with a view to providing a greater degree of clarity and transparency around the resultant implications for our approach towards enforcement work, during the course of the year under review, the Office devised a set of Enforcement Principles which seek to articulate the considerations that inform the Office's enforcement-related decision making.

Specifically, in determining whether to initiate an enforcement process in response to a particular set of facts and circumstances and, if so, the nature of that enforcement process, the Office will have regard to the following broad principles:

- the scale and gravity of the issues involved;
- the wider potential impact of the apparent misconduct;
- the potential for further misbehaviour by the relevant individual/entity;
- the wherewithal of the complainant, where there is one, to resolve the underlying matter(s) without recourse to the Office;
- the probability of achieving a positive outcome; and
- public interest considerations.

The result of having regard to the foregoing principles should be a more consistent approach towards enforcement related

activities, with the Office's limited resources being focussed on those cases most likely to maximise the Office's likely effectiveness in seeking to achieve its statutory objectives.

### Year under review

As can be seen from the body of this Report, the Office delivered a number of tangible outputs during the year, the combined effect of which has been to contribute to:

- assisting stakeholders to comply with their obligations and vindicate their rights respectively under company law; and
- confronting, and dissuading further, irresponsible and non-compliant behaviour.

Notable contributions in that regard included:

- the publication of 6 new guidance and information documents for stakeholders' benefit;
- the securing of the rectification, on a non-statutory basis, of directors' loans issues to an aggregate value of approximately €62m;
- successfully securing, in 230 cases, compliance on the part of a range of parties with their obligations under the Companies Acts through more formal measures;
- the securing of the disqualification of 25 individuals, and the restriction of a further 3, on foot of Court applications made by the Office;
- the restriction of 219 company directors, and the disqualification of a further 9, on foot of liquidators' applications made to the High Court subsequent to the Office's having scrutinised the underlying liquidators' reports; and
- the securing of 17 criminal convictions for breaches of the Companies Acts.

In addition to the foregoing, following protracted litigation regarding the past conduct of the directors of Bovale Developments, in December 2013, the High Court, having considered the evidence adduced, determined that, but for the mitigating circumstances, the appropriate period for which the two individuals concerned should be disqualified would be 14 years each. Having taken the mitigating factors into consideration, the Court determined that the actual period of disqualification should be 7 years each.

## Criminal proceedings related to the former Anglo Irish Bank Corporation

At the time of writing of these remarks, the first of a number of scheduled criminal trials relating to events at the former Anglo Irish Bank Corporation is moving towards a conclusion. Following a lengthy, complex and highly resource intensive investigation, these matters have now come before the Courts and the defendants' guilt or innocence will, in accordance with their Constitutional rights, be determined by a jury of their peers. In that context, it is important to note that any accused person is, and remains, innocent unless and until proven otherwise

The current trial has been described as being the largest "white collar" criminal trial ever to have been mounted in the history of the State and it is, therefore, of considerable significance. Irrespective of the outcome, the fact that this case - despite its scale, complexity, many novel aspects and resource-intensive nature - has been brought to trial demonstrates that the system for investigating possible company law offences at the more serious end of the spectrum is capable of responding appropriately, albeit that, in the broader context, the Office's capacity has been significantly impacted. That, it is hoped, will serve to support and enhance public confidence in that system and, by extension, to contribute towards a strengthening of Ireland's reputation as a well regulated economy.

Two further trials are currently scheduled to take place, one of which is concerned with further alleged breaches of the Companies Acts. From experience, we know that supporting the prosecuting authorities in mounting a trial on indictment and in discharging their disclosure obligations to the defence represents a significant and ongoing challenge. Accordingly, we can reasonably anticipate that the Office will continue to be involved in these matters for some considerable time to come.

## Workforce planning

During the course of the year under review, the Office completed a review of the extent to which its current skills mix is commensurate with its statutory mandate and shared the resultant analysis with the Department of Jobs, Enterprise & Innovation. This review also had regard to the implications for the Office's enforcement practices and likely future caseload of the Enforcement Principles referred to above.

The key issue arising from that review was the conclusion that, in the context of an ambition to concentrate on more complex and serious company law investigations (both civil and criminal), the Office requires to be further professionalised. Specifically, when one has regard to the fact that financial, and related, issues are integral components of most serious breaches of company law, if the Office is to reach its full potential and realise its ambitions of concentrating on suspected wrongdoing at the more serious end of the spectrum, the current insufficiency of in-house accountancy expertise will have to be addressed.

To put the foregoing in context, whilst the Office currently has an approved complement of two accountants, one of those posts is currently vacant by virtue of a recent retirement. Based on the aforementioned review, the Office has concluded that, over the coming years, it will require the appointment of an additional five, suitably qualified and experienced, accountants over and above its current approved complement if it is to be capable of operating credibly and on a sustained basis at the level to which it aspires.

## Concluding remarks

In conclusion, I would like to thank my colleagues for their ongoing commitment and dedication to the achievement of the Office's objectives. During the year under review, the Office has continued to undergo significant change and I have been struck by colleagues' willingness to embrace that change and, as necessary, to assume significant additional levels of responsibility.

Ian Drennan  
Director  
31 March, 2014

AT A GLANCE



## AT A GLANCE

### Advocacy

- 6 new guidance and information publications issued
- 60 information presentations delivered and 16 exhibitions attended

### Enforcement

#### Sources of our work

- In excess of 2,000 statutory reports received from liquidators, auditors and professional bodies
- Over 250 complaints received from members of the public
- Over 100 internally generated inputs

#### Outputs from our work

Following the scrutinising of reports submitted to the Office by liquidators of insolvent companies, 219 company directors restricted and 9 disqualified by the High Court

- Directors' loan infringements to the value of approximately €62m rectified on foot of Office actions
- Compliance with the Companies Acts secured in 230 separate instances through the exercise of the Director's civil powers
- 25 individuals disqualified and a further 3 individuals restricted on foot of applications made by the Office to the High Court
- 17 criminal convictions secured in the District Court, together with two associated disqualification Orders
- 11 separate matters referred to professional accountancy bodies regarding matters relevant to their members.

### Investigation Relating To The Former Anglo Irish Bank Corporation PLC

#### Section 60, Companies Act 1963

- At the date of writing, the trial of three persons is moving towards a conclusion – each defendant having been charged with sixteen counts of alleged contraventions of section 60. In addition to the charges relating to section 60, one of the defendants is charged with a further seven counts of the alleged contravention of the provisions of section 243(2) of the Companies Act 1963

### Financial

- The cost of running the Office during 2013 was €3.123m, some 58% of its allocation for the year and a reduction of 9% on the previous year.



# OVERVIEW OF THE ODCE

# CHAPTER 1

## OVERVIEW OF THE ODCE

### Statutory mandate

#### Office of the Director of Corporate Enforcement

The Company Law Enforcement Act 2001 ("CLEA")<sup>1</sup> provided for the creation of the position of Director of Corporate Enforcement ("the Director"). The Director, who is appointed by the Minister for Jobs, Enterprise & Innovation ("the Minister"), is assisted in the furtherance of his statutory mandate by:

- staff assigned by the Minister; and
- members of An Garda Síochána seconded for that purpose.

Collectively, the foregoing make up the Office of the Director of Corporate Enforcement ("ODCE"/"the Office").

#### Principal functions of the Director

The Director's principal functions are set out in the CLEA<sup>2</sup>. They include to:

- i. encourage compliance with the Companies Acts;
- ii. investigate instances of suspected offences under the Companies Acts;
- iii. enforce the Companies Acts, including by the prosecution of offences by way of summary proceedings<sup>3</sup>;
- iv. refer cases, at his discretion, to the Director of Public Prosecutions ("DPP") where the Director has reasonable grounds for believing that an indictable offence<sup>4</sup> under the Companies Acts has been committed; and
- v. exercise, insofar as he feels it necessary or appropriate, a supervisory role over the activity of liquidators and receivers in the discharge of their functions under the Companies Acts.

#### Independence of the Director

The CLEA<sup>5</sup> provides that the Director shall be independent in the performance of his functions.

### High level goals

Based on the principal statutory functions as set out above, the ODCE's high level goals during the year under review were to:

- i. Promote a greater understanding of affected parties' rights and duties under company law;
- ii. Confront unlawful and irresponsible behaviour insofar as it relates to company law; and
- iii. Provide a quality customer service to internal and external stakeholders.

The strategies and activities pursued and undertaken respectively during the year under review to achieve these goals are elaborated upon in the remainder of this Report as follows:

- Chapter 2 – Promoting a greater understanding of affected parties' rights and duties under company law
- Chapter 3 - Confronting unlawful and irresponsible behaviour insofar as it relates to company law
- Chapter 4 - Providing quality customer service to internal and external stakeholders

<sup>1</sup> Section 7

<sup>2</sup> Section 12(1)

<sup>3</sup> i.e. before the District Court

<sup>4</sup> An indictable offence is an offence capable of being tried on indictment, i.e., before a jury in the Circuit Court.

<sup>5</sup> Section 12(2)

## Resources, organisational structure, governance arrangements & principal workstreams

### Human resources

As at 1 January 2013, the Office had an approved staff complement of 49.1 (1 January, 2012: 52.1) whole time equivalents ("WTE") and an actual complement of 45.5 (1 January, 2012: 49.8) WTE. At year end, the Office's approved staff complement stood at 49.1 (31 December, 2012: 45.5) and the actual staff complement stood at 42.9 (31 December, 2012: 44.4) WTE. The composition of the Office's staff complement as at 31 December, 2013 is set out in the Table below.

**Table 1**  
**Analysis of actual staff complement (WTEs) - as at 31 December, 2013**

Grade	Number
Director	1
Heads of Function <sup>6</sup> (excluding Garda)	4
Legal Advisors	2
Accountants	1
Solicitors	2
Assistant Principals	4
Higher Executive Officers	8
Executive Officers	6.8
Clerical Officers	7.5 <sup>7</sup>
<b>Detective Gardaí (on secondment from the Garda Bureau of Fraud Investigation)</b>	
Detective Inspector (Head of Function)	1
Detective Sergeants	2
Detective Gardaí	2.5
Garda	1
Superintendent	0.1
<b>TOTAL</b>	<b>42.9</b>

<sup>6</sup> Includes 1 Legal Advisor and 1 Solicitor

<sup>7</sup> Includes 1 temporary Legal Secretary

## Financial resources

The Office is funded via the Department of Jobs, Enterprise & Innovation's ("the Department") Vote (Vote 32). The Table below sets out details of the Office's 2013 allocation and expenditure respectively.

**Table 2**  
**Financial allocation and expenditure - 2013**

	Allocation €000s	Expenditure €000s	%
Pay	2,475	2,394	97
Non-pay	2,855	729	26
Exceptional legal costs	50	0	0
<b>Total</b>	<b>5,380</b>	<b>3,123</b>	<b>58</b>

**The principal reasons as to why actual expenditure differed from the allocation were as follows:**

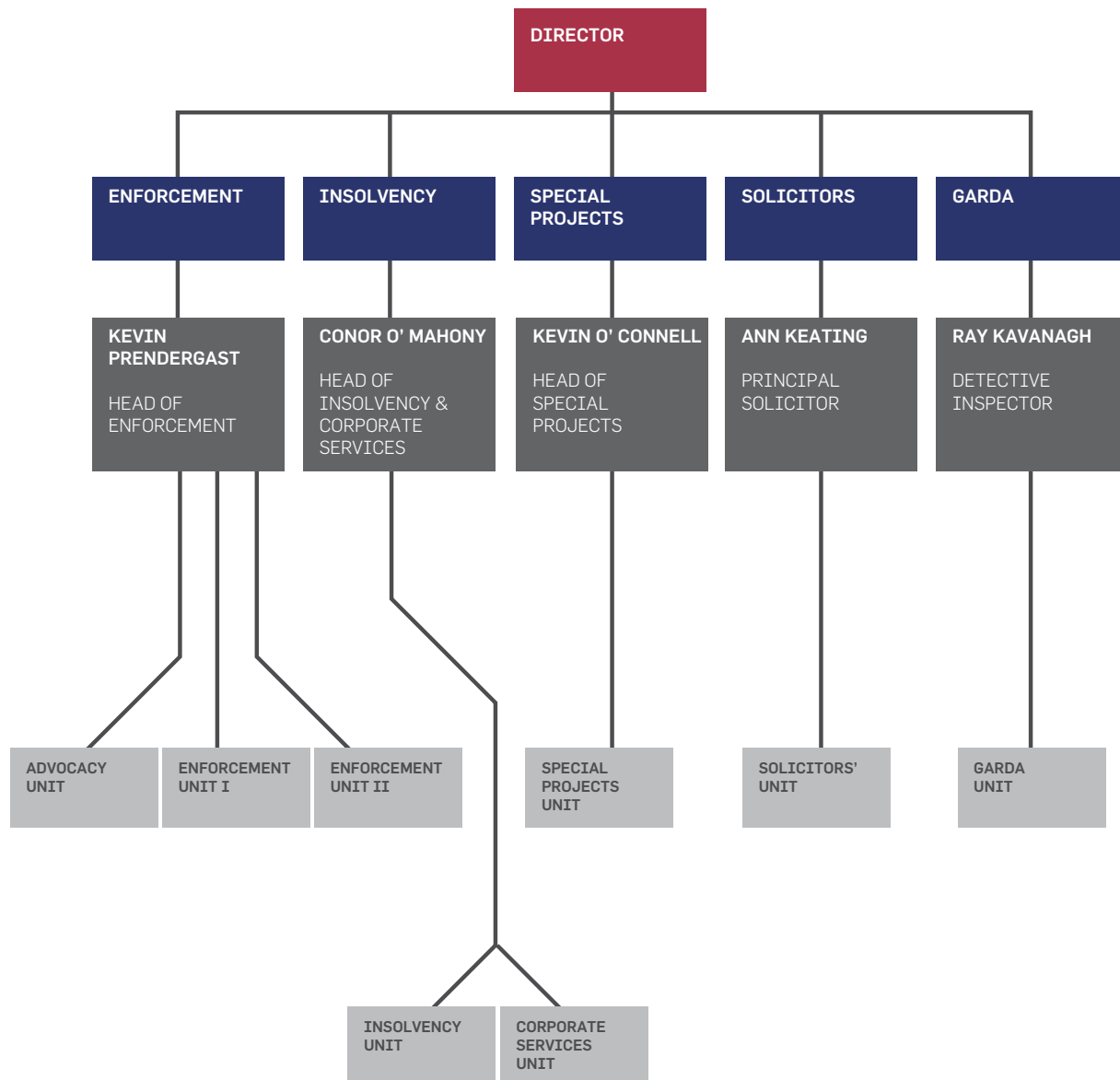
- savings on pay, resulting from staff reductions arising from vacancies arising during the year; and
- certain legal costs which had been anticipated might arise during the year did not do so. On determination of two cases, costs were successfully avoided. In other cases, the issue of costs was deferred as the hearing of those cases remained pending before the Courts at year end.

A more detailed analysis of expenditure during the year is set out at Appendix 1 to this Report.

## Organisational structure

During the course of 2012, certain amendments were effected to the Office's organisational structure, with those amendments, details of which were provided in the 2012 Annual Report, centring largely on the area of Enforcement & Professional Services. Certain further structural amendments were effected during the year under review in response to operational needs.

Having regard to the Director's principal statutory functions and the associated workstreams, the Office is structured into eight Units, with each Unit coming under the responsibility of one of five Heads of Function. The Office's organisational structure is set out in the organogram overleaf.



## Governance arrangements

In conjunction with the amendments effected to the Office's organisational structure following the appointment of the new Director in 2012, certain amendments were made to the Office's governance structures. As a consequence, a reconfigured Management Board - which comprises of the Director and each Head of Function - meets regularly and discusses issues of Office wide relevance. Issues of key importance from the Management Board's perspective include organisational performance and risk management.

## Principal workstreams

The nature of the Office's principal workstreams is such that most of them require a multi-disciplinary approach involving ongoing interaction between Units and/or the active collaboration of Units with a view to achieving corporate objectives.

Accordingly, effective communication between Units, and that each Unit take an organisation-wide perspective when performing its functions, is a critical success factor. Accordingly, this is an approach that is both encouraged and facilitated by the Management Board.

The Office's principal workstreams are set out in the Table below, together with details of where in this Report each workstream is principally dealt with.

**Table 3**  
**Principal workstreams**

Workstream	Unit(s) principally involved	Chapter
Encouraging compliance with the Companies Acts	Responsibility for encouraging compliance with the Companies Acts resides in the first instance with the Advocacy Unit. However, the Advocacy Unit liaises with other relevant Units with a view to monitoring trends and identifying areas meriting focussed advocacy initiatives.	2
Advocating legislative and policy enhancements	Depending upon the nature of the subject matter, the development of ODCE submissions is assigned to one or more Units. Generally speaking, however, the development of submissions will be co-ordinated through the Advocacy Unit.	2
Reviewing, and adjudicating upon, liquidators' reports	Liquidators' reports are processed by the Insolvency Unit. Decisions on individual reports are made by Case Officers, who principally reside in the Insolvency and Enforcement Units respectively.	3
Examination of complaints and statutory reports	<p>The examination of complaints and statutory reports (such as, for example, auditors' indictable offence reports) is the responsibility of the Enforcement function. Dependent upon the nature of the issues arising, the Enforcement function may:</p> <ul style="list-style-type: none"> <li>• address the issues itself, e.g., by way of voluntary rectification/remediation or through the use of certain of the Director's statutory powers;</li> <li>• refer the matter to the Enforcement Unit for further investigation;</li> <li>• refer the matter to the Insolvency Unit, e.g., where the issues is question relate to an insolvent company in liquidation;</li> <li>• refer the matter to a third party, for example, another regulatory or enforcement body.</li> </ul>	3

Civil enforcement litigation	<p>For the most part, civil enforcement litigation is managed by the Enforcement Unit in conjunction with the Principal Solicitor's Unit.</p> <p>Civil litigation, such as seeking the disqualification of directors of companies that have been struck off the Register whilst having undischarged debts, is managed jointly by the Insolvency and Principal Solicitor's Units.</p>	3
Criminal investigation and prosecution	<p>The investigation of possible criminal breaches of the Companies Acts is undertaken by the Enforcement Unit in conjunction with the Garda Unit.</p> <p>Once a decision has been taken to initiate summary criminal proceedings, the prosecution becomes a collaboration between the Enforcement, Garda and Principal Solicitor's Units.</p> <p>In circumstances where, having reviewed an investigation file as submitted by the Office, a decision is taken by the DPP to initiate a prosecution on indictment, the provision of subsequent support to the Office of the DPP (for example, regarding disclosure to the defence), is primarily the responsibility of the Enforcement and Garda Units.</p>	3
Supervision of liquidators' behaviour	<p>Actions taken to supervise liquidators' behaviour (such as, for example, seeking the production of liquidators' books and records) is a collaborative effort between the Insolvency and Enforcement Units. In circumstances where such activities result in the necessity to engage in litigation, the Principal Solicitor's Unit becomes involved.</p>	3
Provision of support services	<p>The provision of support services is the primary responsibility of the Corporate Services Unit.</p> <p>All Units have a responsibility to assist the Corporate Services Unit in ensuring that the ODCE's obligations as a publicly funded Office (e.g. in the areas of procurement, tax clearance procedures etc.) are fully complied with.</p>	4
Relationship management and development	<p>Whilst certain Units will, by virtue of the nature of their principal operations, have a greater degree of interface with certain external stakeholders than others, the interlinked nature of the organisation is such that all Units have a role in ongoing relationship management and development.</p>	2



# PROMOTING A GREATER UNDERSTANDING OF AFFECTED PARTIES' RIGHTS AND DUTIES UNDER COMPANY LAW

02.

## CHAPTER 2

# PROMOTING A GREATER UNDERSTANDING OF AFFECTED PARTIES' RIGHTS AND DUTIES UNDER COMPANY LAW

### Introduction

This Chapter provides details of the principal strategies pursued, and activities undertaken, by the Office during the year under review in the furtherance of the above stated goal. In summary, those strategies and activities included:

- the development and promulgation of publications and other guidance material;
- engaging in a range of outreach activities, including the delivery of presentations, attendance at seminars and exhibitions and dealing with general company law enquiries from members of the public;
- advocating legislative and policy enhancements; and
- managing and developing relationships with external stakeholders.

### Publications and outreach activities

#### Publications

The Office, from time to time, develops and publishes information and guidance for stakeholders' benefit. The publication of such material is typically on foot of the enactment of a new piece of legislation or in response to issues identified through other aspects of the Office's work (e.g., on aspects of company law that appear to be giving rise to significant levels of non-compliance). During the year, the Office issued 6 new publications (2012: 10). Details of those publications are set out in the Table below.

**Table 4**  
**Publications issued - 2013<sup>8</sup>**

Date Issued	Publication
January - December 2013 <sup>9</sup>	List of insolvent companies and reporting liquidators in respect of which the ODCE has identified the requirement for a section 56 Report in 2013
February 2013	Annual General Meetings – Quick Guide
February 2013	Keeping Books of Account – Quick Guide
May 2013	Annual Report
August 2013	Committees of Inspection – Quick Guide
September 2013	Information Notice I/2013/1 - Company Disclosure of Information

Throughout the year, the Office published bi-monthly lists of insolvent companies and the reporting liquidators in respect of whom the Office had identified the requirement for a section 56 Report in 2013. The purpose of this list is to enable interested parties to bring any matters of concern in relation to an affected insolvent company to the attention of the liquidator and/

<sup>8</sup> All publications are available at [www.odce.ie](http://www.odce.ie)

<sup>9</sup> Published every two months, available at <http://www.odce.ie/en-gb/publications/publicationsrelatingtoli liquidations/newliquidations20102013.aspx>

or the ODCE in order that any such concerns can be taken into account in assessing whether or not an application for the company's directors to be restricted should be made before the High Court. The section 56 process is discussed in greater detail in Chapter 3 of this Report.

During 2013, the Office also issued a number of further publications in its range of Quick Guides. These publications dealt with:

- Annual General Meetings;
- Keeping Books of Account; and
- Committees of Inspection.

All such guidance is produced in conjunction with the National Adult Literacy Agency ("NALA") and, as such, has obtained the "Plain English" stamp, which signifies a clear, concise and simple writing style allowing the reader to easily understand the message.

From time to time the Office publishes Information Notices on, for example, newly enacted legislation for stakeholders' benefit. In that context, the Office published one such document during the year - on the subject of the company information disclosure requirements under the Companies Acts and various EU Regulations.

In addition to the foregoing, the Office issued in excess of 15,000 copies of its various publications during 2013. In particular, the Office's updated information books proved to be popular, as did the Office's expanding range of Quick Guides. By agreement with the Office, the Companies Registration Office ("CRO") issued approximately half of these documents to persons registering new companies<sup>10</sup>. The remainder were, in the main, issued in response to public demand, either at events exhibitions and presentations or as a result of persons contacting the Office directly.

### **Seminars and exhibitions**

A key element of the Office's advocacy strategy is its outreach programme. This consists of, amongst other things, the delivery of presentations and speeches to stakeholder groups, as well as attendance at exhibitions and events where the audience is likely to include one or more elements of the Office's target audience. The Office has identified certain constituencies as being its target audience, including:

- persons considering incorporation or persons that have recently incorporated businesses;
- professionals engaged in the provision of advice to companies and company directors, who are well placed to relay the compliance message to clients and so considerably expand the reach of the Office;
- students currently enrolled in business programmes at undergraduate and postgraduate level, many of whom will ultimately become directors of companies or professional advisors themselves; and
- the community and voluntary sectors, who by their nature tend to lack a knowledge of company law and, as a result, tend to need guidance on corporate governance and related matters.

During the year, Office staff delivered 60 presentations (2012: 47) to a combined audience of in excess of 2,500 people. Of particular note was that, in the first part of the year, the Office expanded its engagement with City and County Councils for the purpose of outlining the corporate governance issues that can arise in the context of the activities they undertake and services they provide respectively through the medium of companies. The Office also participated in the highly successful Taking Care of Business event held in Dublin Castle in October 2013. This event will be held in a number of regional venues during 2014. During the year, the Office was also represented at 16 exhibitions and events (2012: 16). Details of the presentations delivered and exhibitions attended respectively during the year are set out at Appendix 2 to this Report.

<sup>10</sup> The CRO typically issues the ODCE Quick Guide on Company Directors as part of its pack as issued to newly incorporated companies.

## Advocating legislative and policy enhancements

Given its mandate of promoting compliance, and enforcing non-compliance, with company law, the Office is well placed to offer an informed perspective on policy discussions and debates that take place at national and EU level regarding company law and associated topics. In that context, the Office made submissions in response to a number of policy proposals during the year. Further details are set out below.

### The Companies Bill

During the year, the Office continued its work in assisting the Department in progressing the Bill (the primary purpose of which is to consolidate the current body of company law, which, at present, is contained in 16 Acts of the Oireachtas<sup>11</sup> as well as numerous Statutory Instruments and Regulations) through the legislative process. The Bill does, however, also include some proposed amendments and additions to company law as it currently stands.

### Proposed ICAV legislation

Irish Collective Asset-management Vehicles ("ICAVs") are special purpose financial entities which, although not companies, feature some of the characteristics of a company. During the year, the Office was involved in extensive engagement with the Department, the Department of Finance and the Central Bank on the proposed introduction of ICAVs under Irish legislation, which resulted ultimately in a Government decision that the ODCE should have a limited role in the regulation of these entities (primary responsibility for the regulation of these entities is a matter for the Central Bank). It is understood by the ODCE that the details in relation to such regulation will be finalised during 2014.

## Managing and developing relationships with external stakeholders

In furtherance of its statutory objectives and associated goals, the Office seeks to develop and maintain strong and effective relationships with a range of key stakeholders. In addition to the general public, the Office's key stakeholders include the Oireachtas, the Minister, the Department, other statutory/regulatory bodies and those providing professional services to companies and company directors and officers. The Office's interactions during the year with certain of its key stakeholders are summarised below.

### Members of the Oireachtas

The Office from time to time receives communications from members of the Oireachtas. Typically, these communications constitute expressions of concern as to whether the Companies Acts are being breached by particular parties or relate to cases under review. Whilst the Office is constrained in the extent to which it can respond to such communications by virtue of its statutory confidentiality obligations, it endeavours to provide whatever assistance it can to Deputies<sup>12</sup> and Senators<sup>13</sup>.

### Department of Jobs, Enterprise & Innovation

Office staff continued to liaise with colleagues in the Department throughout the year on matters of mutual interest. The Office has been afforded representation at Departmental divisional management meetings and, outside of those formal structures, there are regular contacts as the need arises.

### CRO

As the public repository of information on companies and company officers, the CRO plays a critically important role in supporting the Office in its work. In addition to meeting regularly on matters of mutual interest, CRO staff regularly supply evidence in ODCE proceedings and, where identified, of prima facie breaches of the Companies Acts.

<sup>11</sup> Collective term for the Upper and Lower Houses of Parliament

<sup>12</sup> Members of the Lower House of Parliament

<sup>13</sup> Members of the Upper House of Parliament

### **Garda Bureau of Fraud Investigation ("GBFI")**

As referred to in Chapter 1 of this Report, the Office's staff complement includes a number of Gardaí. These Gardaí are on secondment from the GBFI. The Office's close working relationship with An Garda Síochána, and GBFI in particular, is critical to its criminal enforcement work. In that context, the Office meets with GBFI senior management on a regular basis on matters of mutual interest.

### **Irish Auditing and Accounting Supervisory Authority ("IAASA")**

In accordance with the provisions of the Companies (Auditing and Accounting) Act 2003 ("2003 Act"), the Director is a member of IAASA and has the right to nominate a member to its Board of Directors. Mr. Conor O'Mahony, the Office's Head of Insolvency & Corporate Services, is, in that context, a member of IAASA's Board of directors.

During the year, the IAASA Board met on 8 occasions. The ODCE nominee attended all of those meetings. IAASA's 2013 Annual Report will be available on its website<sup>14</sup> once it has been laid before the Oireachtas by the Minister.

In addition to this statutory relationship as outlined above, the Office engaged regularly with IAASA during the year on matters of mutual interest.

### **Company Law Review Group ("CLRG")**

The CLRG is a statutorily established advisory body to the Minister on matters relating to company law. The Director is a member of the CLRG and the Office is represented at both plenary meetings and at meetings of Committees whose work is pertinent to its remit. During the year, the CLRG continued its work on its 2012/2014 work programme<sup>15</sup>. The Office contributed to, amongst others, the following issues as considered by the CLRG:

#### **Use and re-use of CRO information**

On this broad topic, the CLRG made a number of suggestions, including reiterating the proposal in its 2006/2007 programme that individual directors should be allowed to apply to An Garda Síochána to have their addresses removed from the public record if there is a risk to their personal security. The Group also recommended a statutory underpinning for the CRO's bulk redistribution of data regime and suggested the provision of new guidance relating to the CRO's archiving policy.

#### **Audit exemption thresholds**

The CLRG concluded that, in future and in line with most other European jurisdictions, companies should only have to meet two, rather than all three, of the current criteria for audit exemption. The CLRG also recommended that the ODCE should have certain means at its disposal for establishing whether audit exemption has been legitimately claimed.

#### **Representation of a company before the Courts**

The CLRG commenced a review on this topic towards the end of 2013 and its consideration is ongoing.

### **Central Bank**

The ODCE and the Central Bank have in place a Memorandum of Understanding which, based on their respective grounding legislation, allows each body to refer information to the other where they are satisfied that such information is relevant to the other's remit.

During 2013, the Central Bank hosted a meeting of the Regulators' Forum, where a range of senior officials from various regulatory bodies met to discuss issues of mutual interest. ODCE staff attended the meeting and it is anticipated that the Forum will continue to meet from time to time in the future.

<sup>14</sup> [www.iaasa.ie](http://www.iaasa.ie)

<sup>15</sup> A copy of the CLRG's 2012 Annual Report is available at [www.clrg.org](http://www.clrg.org)

### **Office of the Revenue Commissioners**

The Revenue Commissioners are an important partner of the Office in the furtherance of its work, in particular in respect of insolvency related matters. In that context, the two bodies met on a number of occasions during the year. Moreover, the two bodies shared information in respect of 24 separate matters (2012:10).

During 2013, the ability of the Office to utilise information received from the Revenue Commissioners continued to be impacted by a provision included in the Finance Act 2011. However, this issue was remedied during the year under review by the inclusion of an amendment to section 18 of the CLEA, as contained in section 6 of the Companies (Miscellaneous Provisions) Act 2013. The amendment came into force on 24 December, 2013. The effect of this amendment is to facilitate improved exchange and use of information between the Office and a range of other statutory Agencies, including the Revenue Commissioners.

### **Accountancy profession**

The accountancy profession plays an important role in assisting the work of the Office, through both the mandatory reporting obligation for auditors to report suspected indictable offences under the Companies Acts and the wider support for the Office's compliance message which its members can deliver to their clients. As such, the Office seeks to work closely with the accountancy bodies to support them in ensuring that their members are fully informed of their statutory reporting obligations and to apprise them of the assistance that the Office can be to those of their members' clients that occupy positions as company directors and officers.

Office representatives held two formal meetings with the accountancy bodies' senior management during the year. In addition to these meetings, the Office also worked with the profession through a Technical Liaison Group, where matters of a more technical nature are discussed.

### **Irish Stock Exchange**

The Office held one formal meeting with senior staff of the Irish Stock Exchange during 2013.

### **International Association of Insolvency Regulators ("IAIR")**

The IAIR is an international body that brings together the collective experiences and expertise of national insolvency regulators from 26 jurisdictions around the world. The IAIR, of which the Office has been a member since 2003, is a valuable forum for the promotion of liaison and co-operation between its members and for sharing information on areas of common interest and best practice.

### **Other interested parties**

In addition to the stakeholder groups referred to above, the Office also met, and/or worked, with a range of other stakeholder groups and interested parties during 2013, including the Institute of Directors, the Competition Authority and the National Consumer Agency.

### **Media**

The Office typically deals with hundreds of media queries annually. Whilst the Office is mindful of the important role the media can play in informing the debate on company law, compliance and governance issues generally, and strives where possible to assist the media in dealing with general queries, it must equally take great care in how it does so. The Office is precluded under its governing legislation from making any public comment on the conduct of investigations, except in respect of information which has already made its way into the public domain. In addition, the Office is mindful of the rights of individuals and other persons coming before the Courts, and, as such, it does not issue progress reports or any other information on its enforcement activity if to do so could potentially prejudice any future legal actions.

Where appropriate, members of Office staff contribute articles to the media and relevant publications. Office staff wrote, or contributed to, articles in a number of accountancy journals during 2013, on topics such as pre-pack receiverships and the phenomenon of unqualified auditors.