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COMPANY SECRETARIAL AND CORPORATE GOVERNANCE

Changes to the Companies Act 2014

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The Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024 (the 2024 Act) will introduce significant and welcome changes to the Companies Act 2014.

The 2024 Act was signed into law by the president on 12 November 2024, but it is not yet in force. It will come into operation through orders signed by the Minister. We are awaiting further clarity on when this will take place.

The changes that are of most interest from a company secretarial and corporate governance perspective are outlined below.

Involuntary Strike Off

The grounds for involuntary strike will be expanded to include failure to file beneficial ownership information with the RBO, failure to have a valid registered office address, and failure to have a company secretary recorded at the CRO.

A director will not be subject to disqualification if the company is struck off by the Registrar of Companies for any of the three additional grounds for involuntary strike off.

Restoration

If a company is struck off on one of the three additional grounds for strike off, that ground must be addressed by the company. A company must also satisfy the Registrar of Companies that the company has a registered office and a secretary, or else the Registrar of Companies must be in receipt of written confirmation from the Registrar of Beneficial Ownership that there is no objection to the company being restored.

Audit Exemption

A new two-step regime for the SME audit exemption whereby an SME will only lose audit exemption if it files two late annual returns within a five-year period, rather than losing audit exemption on the first offence.

Registered Office Address

A registered office agent will be empowered to notify the Registrar of Companies that a company's registered office address is no longer care of the agent and the Registrar of Companies may request evidence of situation of a registered office.

General Meetings

A new permanent provision will allow companies to hold hybrid or fully virtual general meetings, provided that the Constitution of a company does not provide otherwise. The conditions and procedures for virtual

meetings are stipulated.

Summary Approval Procedure (SAP)

Copies of SAP documents must be delivered to the Registrar of Companies in the prescribed form and manner.

Company Seal

Allows for a company seal and the necessary signatures to be on separate documents which can then be counted as one single document.

Rescue Process for Small and Micro Companies

Numerous amendments to the rescue process for small and micro companies including clarification on the circumstances which bring a rescue process to an end.

Domestic Mergers

Amendments allow for a merger to take place between one or more DACs and facilitate a merger by absorption of a group of private companies in one transaction rather than several transactions.

Disclosure of Information, Books or Documents

The 2024 Act includes enhanced powers for the Corporate Enforcement Authority (CEA) including an expansion to the list of competent authorities with which the CEA may share information, or the books and documents of a company.

Thoughts

The amendments to the Companies Act 2014 are welcome news for SMEs in Ireland. While the changes will enable a larger number of companies to avail of exemptions such as the audit exemption, thus reducing the administrative and financial burden; the grounds for involuntary strike off have been significantly expanded presenting and increased threat to those companies not up to date with their compliance.

While we await its commencement, companies and corporate governance professionals should familiarise themselves with the imminent changes.

If you require assistance or advice in relation to any of these matters, please contact our experienced Company Secretarial and Corporate Governance team.

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