

DÁIL ÉIREANN

AN ROGHCHOISTE UM GHNÓ, FIONTAIR AGUS NUÁLAÍOCHT

SELECT COMMITTEE ON BUSINESS, ENTERPRISE AND INNOVATION

Dé Céadaoin, 21 Feabhra 2018

Wednesday, 21 February 2018

Tháinig an Roghchoiste le chéile ag 2.45 p.m.

The Select Committee met at 2.45 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	
Niall Collins,	
Heather Humphreys (Minister for Business, Enterprise and Innovation),	
James Lawless,	
Tom Neville,	
Maurice Quinlivan.	

Teachta / Deputy Mary Butler sa Chathaoir / in the Chair.

Companies (Statutory Audits) Bill 2017: Committee Stage

Chairman: I welcome to the committee Deputy James Lawless, who is replacing Deputy Gino Kenny, who is no longer in a position to attend our meetings.

I remind members to ensure their mobile phones are switched off for the duration of the meeting as they interfere with the broadcasting and recording equipment, even when left in silent mode.

The purpose of the meeting is to consider the Companies (Statutory Audits) Bill 2017, which was referred to the committee by order of the Dáil of 24 January. I welcome the Minister for Business, Enterprise and Innovation, Deputy Heather Humphreys, and her officials. A total of 30 amendments have been tabled and it is intended to complete Committee Stage today. Is that agreed? Agreed. I refer members to the circulated list of amendments which have been grouped for the purposes of debate.

Sections 1 to 8, inclusive, agreed to.

SECTION 9

Question proposed: “That section 9 stand part of the Bill.”

Deputy Niall Collins: I will have the same comments to make on sections 9 and 10.

Chairman: We can discuss both of them together.

Deputy Niall Collins: During the debate on Second Stage we outlined that we had some reservations about the loss of the audit exemption for small companies. I said it would impose an unnecessary burden on SMEs at a time when we should be doing everything we could to help them by reducing regulation and red tape. I also said it was unfair on the auditors of small companies to have to perform audits of companies that were almost too small to audit in the first instance. Many of them have only one or two members of staff. The loss of the exemption will also apply where a company misses an annual return deadline with the Companies Registration Office where, for example, a director suffers a serious illness or there is a death in the family. These are issues that come up every day of the week and challenges faced by small companies.

During the debate on Second Stage Deputies also received communications from some of the accountancy bodies outlining some of their concerns about the legislation. I am concerned about section 9 on the basis of what has been said. I am sure the Minister is aware of the fact that the accountancy bodies perceive the proposed changes as a misuse of the audit function. They argue that we will be out of step with the rest of the European Union and that the changes will impose an additional administrative burden on the SME sector. They also point out that the cost of going to the High Court will be prohibitive for most small companies and will overly penalise them in their day-to-day functioning. It is on that basis that Fianna Fáil is opposing sections 9 and 10.

Minister for Business, Enterprise and Innovation (Deputy Heather Humphreys): While I accept the spirit of what Deputy Niall Collins has said, I ask him to withdraw his op-

position to the section for now. On Second Stage I promised to consider the points made on the issue both during the debate and in representations I had received directly since the Bill had been published. Clearly, there are legitimate concerns where a company finds itself unable to file on time, but we should be able to find a way to address some of them. However, any way forward must also ensure the interests of third parties will be protected and not undermined by reduced transparency.

One aspect that strikes me is the way in which the loss of the audit exemption is applied in law. The position could be improved. In particular, the costs involved and burden imposed could be reduced by changing the years to which it applies. Currently, there is a need to go back in time, but the accounting and audit profession has made representations to the Department, as recently as this week, to the effect that making the audit more contemporary would save time and reduce costs. I intend to bring forward proposals on Report Stage for the introduction of measures to reduce the cost and lessen the impact of some of the more burdensome aspects of losing the audit exemption. I am also looking at ways by which we could further streamline the annual filing process. There may be scope to reduce or change the steps associated with filing such that there would be fewer reasons for a company to file late. I intend to consider amendments that would simplify the filing process and hope to be able to bring them forward on Report Stage.

In summary, we are looking at removing the requirement to make an application to the District Court. Companies will be allowed to file late, but they will lose their audit exemption and will have to have their accounts audited. However, audits will take place for the current and following year, which will remove the necessity to file documents for an historical audit. Companies have 28 days in which to file and a further 28 days in which to make a subsequent filing. We may change that figure and give companies 56 days in which to file their final statements and annual return. That is what I am hoping to bring forward on Report Stage, having considered what the Deputy has said. I hope that is acceptable to him.

Deputy Niall Collins: We will withdraw our opposition to the section for now on the understanding the Minister will bring forward amendments on Report Stage. I ask that the Government's proposals be furnished to us in good time in order that we will have a chance to study them and consider their potential impact and also consult the accountancy bodies and business representatives.

Deputy Heather Humphreys: We will certainly do that.

Deputy Niall Collins: We reserve our right to oppose the sections on Report Stage, if necessary.

Question put and agreed to.

Sections 10 to 13, inclusive, agreed to.

SECTION 14

Deputy Heather Humphreys: I move amendment No. 1:

In page 9, to delete lines 6 to 8 and substitute the following:

“(s) section 1487(4);
(t) section 1488(3).”

This is a technical amendment to remove an incorrect cross-reference from section 14L.
Amendment agreed to.

Section 14, as amended, agreed to.

Sections 15 to 28, inclusive, agreed to.

SECTION 29

Deputy Heather Humphreys: I move amendment No. 2:

In page 22, line 5, to delete “recognised” and substitute “prescribed”.

This is a technical amendment which ensures the definition of a “relevant person” in section 29 refers to members of all of the “prescribed” accountancy bodies, not just the “recognised” accountancy bodies. The term “prescribed accountancy bodies” encompasses recognised accountancy bodies. The section is concerned with the definition of a “relevant person” for the purposes of an investigation by the disciplinary committee of a prescribed accountancy body into a breach of standards by a member.

Amendment agreed to.

Section 29, as amended, agreed to.

Sections 30 to 32, inclusive, agreed to.

SECTION 33

Chairman: Amendments Nos. 3 to 10, inclusive, and 18 to 21, inclusive, are related and will be discussed together.

Deputy Heather Humphreys: I move amendment No. 3:

In page 28, lines 37 and 38, to delete “there has been no enquiry under section 933 into the non-compliance;” and substitute “no enquiry under section 933 into the non-compliance has been commenced;”.

The amendments are clarifications and all connected with a power the Bill gives to the Irish Auditing and Accounting Supervisory Authority, IAASA, and the Director of Corporate Enforcement.

It is the power to impose sanctions by way of agreements. There are three types of such an agreement, as provided for in sections 33, 35 and 45. Section 33 provides that the IAASA may enter into such agreements with a prescribed accountancy body or a recognised accountancy body. These are agreements to settle cases of non-compliance by a body in respect of the application of the disciplinary process by a prescribed accountancy body and how a recognised accountancy body is performing the audit oversight tasks for which it is responsible. Section 35 provides that the IAASA may enter into such agreements directly with a member of a prescribed accountancy body, a statutory auditor or an audit firm. These are agreements to settle cases of breaches of the standards of a prescribed accountancy body or of the rules governing statutory audit. Section 45 provides that the Director of Corporate Enforcement may enter into such an agreement with a director of a public interest entity where that director has contributed

to a breach of the rules of statutory audit by a statutory auditor or audit firm.

All these agreements share some characteristics. For a start, the terms of this type of agreement are binding on the IAASA or the Director of Corporate Enforcement on the one hand and on the accountancy body, auditor or director concerned on the other. They may include sanctions, such as a financial penalty. Depending on the circumstances, an agreement may be entered into without an investigation or inquiry having first been initiated. They are at the absolute discretion of the parties concerned. The IAASA or the director, as appropriate, shall publish the details of any agreement on its website as soon as is practicable. The purpose of these agreements is to avoid lengthy and costly proceedings while ensuring the appropriate regulatory outcomes.

The purpose of amendments Nos. 3, 7 and 18 is to clarify that these agreements may be reached without the need to initiate an inquiry under section 933, or an investigation under section 934 or an investigation under Part 15 of the Companies Act 2014, as appropriate. Amendments Nos. 4, 8 and 19 clarify that while the terms of these agreements may include the imposition of sanctions and the payment of costs, they are not limited to these terms. Amendments Nos. 5, 9 and 20 are purely technical to allow for amendments Nos. 6, 10 and 21, respectively. Amendments Nos. 6, 10 and 21 clarify that this type of agreement does not require the confirmation of the court, as provided for in section 941 of the Companies Act 2014 and in new section 957I, which is inserted by this Bill. This is because the agreements are at the absolute discretion of both parties to them. Amendments Nos. 10 and 21 also insert new subsections into sections 934E and 957E, respectively, to the effect that the IAASA or the Director of Corporate Enforcement, as appropriate, shall publish the details of these agreements on its website as soon as practicable.

Deputy Maurice Quinlivan: The particulars of the relevant contravention and the relevant sanction will be published on the website. What does the Minister intend to do? Is this new or more material to go on it?

Deputy Heather Humphreys: No, it is not new. It is a clarification that it is possible to do it.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 4:

In page 29, line 1, to delete “the terms of the agreement” and substitute “without prejudice to the generality of the terms of the agreement, such terms”.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 5:

In page 29, line 24, to delete “website.” and substitute “website.”.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 6:

In page 29, between lines 24 and 25, to insert the following:

“(7) Section 941 shall be disregarded for the purposes of a section 933A agree-

ment.”.”.

Amendment agreed to.

Section 33, as amended, agreed to.

Section 34 agreed to.

SECTION 35

Deputy Heather Humphreys: I move amendment No. 7:

In page 36, lines 17 and 18, to delete “there has been no investigation under section 934 into the contravention;” and substitute “no investigation under section 934 into the contravention has been commenced;”.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 8:

In page 36, line 22, to delete “the terms of the agreement” and substitute “without prejudice to the generality of the terms of the agreement, such terms”.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 9:

In page 36, line 35, to delete “The provisions” and substitute “Subject to subsection (6), the provisions”.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 10:

In page 37, between lines 6 and 7, to insert the following:

“(6) The necessary modifications referred to in subsection (3), in so far as section 934F is concerned, include reading that section as if—

(a) the following subsection were substituted for subsection (1) of that section:

‘(1) Subject to subsection (3), the Supervisory Authority shall, in so far as a relevant decision imposes a relevant sanction on a specified person, as soon as is practicable, publish on its website particulars of the relevant contravention for which the relevant sanction was imposed, particulars of the relevant sanction imposed and particulars of the specified person on whom the relevant sanction was imposed.’,

(b) subsections (2) and (4) of that section were deleted, and

(c) in subsection (5) of that section, the reference to ‘or (2)’ were deleted.

(7) Section 941 shall be disregarded for the purposes of a section 934E agreement.”.

Amendment agreed to.

Section 35, as amended, agreed to.

Section 36 agreed to.

SECTION 37

Deputy Heather Humphreys: I move amendment No. 11:

In page 39, line 31, to delete “after section 936:” and substitute “before section 937:”.

This amendment is technical. It is a drafting matter.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 12:

In page 40, line 32, to delete “and anonymous”.

I am proposing this amendment to section 37 for clarity and to align the wording of this section with the EU audit directive. Section 37 provides that the IAASA must, as required by Article 30f of the EU audit directive, provide aggregated information annually on all sanctions and measures imposed under the EU audit directive for publication in the annual report of the Committee of European Auditing Oversight Bodies. This amendment deletes the word “anonymous” regarding the information that must be supplied as this is not required by the audit directive. Accordingly, the text of the new section 936B will better reflect the requirements of the audit directive.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 13:

In page 41, line 13, to delete “Chapter 3.” and substitute “Chapter 3.”.

This amendment, together with amendment No. 14, is tabled to clarify matters to do with the IAASA’s obligation to communicate certain information to the Committee of European Auditing Oversight Bodies, CEAOB. Amendment No. 13 is purely technical to permit amendment No. 14 to be made. Amendment No. 14 inserts five new subsections into the new section 936B, which is concerned with the matters that the IAASA must communicate to the CEAOB. The EU audit directive requires the IAASA to communicate immediately to the CEAOB certain sanctions imposed on statutory auditors or audit firms or directors of public interest entities. As some of these sanctions may have been imposed by the recognised accountancy bodies, the IAASA will rely on those bodies for this information.

Accordingly, amendment No. 14 inserts a new subsection (3) to clarify that a recognised accountancy body must inform the IAASA immediately of any temporary prohibition imposed by it on a statutory auditor or audit firm that prohibits it from carrying out audits or signing audit reports, and from performing functions in audit firms or public interest entities. Amendment No. 14 also inserts a new subsection (4) which clarifies that there is a similar obligation on the IAASA to submit this information onwards to the CEAOB immediately. As well as this urgent type of information, the EU audit directive also requires the IAASA to provide aggregated information annually on all sanctions and measures imposed under the EU audit directive for publication in the CEAOB’s annual report. This amendment therefore inserts a new subsection (5) to clarify that a recognised accountancy body must also give the IAASA annually all

such equivalent sanctions and measures it has imposed. Similarly, the amendment inserts a new subsection (6) which clarifies that there is a like obligation on the IAASA to submit this information onwards to the CEAOB as soon as may be. Finally, the amendment inserts a new subsection (7) to clarify that with regard to sanctions in the case of the recognised accountancy bodies, these are the sanctions imposed by them on statutory auditors who are members of that body or in respect of whom the body has been designated oversight functions.

Amendment No. 23 is technical and related. It inserts a cross reference to the EU directive to clarify that the obligation on recognised accountancy bodies to ensure that they can impose penalties on auditors includes the imposition of these temporary prohibitions as provided for in Article 30a(1)(c) and (e) of the directive.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 14:

In page 41, between lines 13 and 14, to insert the following:

“(3) A recognised accountancy body shall immediately communicate to the Supervisory Authority particulars of any temporary prohibition referred to in point (c) or (e) of Article 30a(1) of the Audit Directive imposed by the body on a relevant person.

(4) The Supervisory Authority shall immediately communicate to the CEAOB particulars which have been communicated to it under subsection (3).

(5) Without prejudice to the generality of sections 1523 and 1556, a recognised accountancy body shall, as soon as may be after the end of a year, give to the Supervisory Authority aggregated information in relation to—

(a) all sanctions equivalent to relevant sanctions imposed by it on relevant persons during the year in accordance with Part 27, and

(b) all notices equivalent to public notices of the sanctions first-mentioned in paragraph (a) imposed by it on relevant persons during the year in accordance with Part 27.

(6) The Supervisory Authority shall, as soon as may be after it is given the information referred to in subsection (5), give the information to the CEAOB.

(7) In this section, ‘relevant person’, in relation to a recognised accountancy body, means—

(a) a member of the body, or

(b) an auditor or audit firm in relation to whom, by virtue of section 930C, the body may perform functions,

who is a statutory auditor or former statutory auditor.”.”.

Amendment agreed to.

Section 37, as amended, agreed to.

Section 38 agreed to.

SECTION 39

Deputy Heather Humphreys: I move amendment No. 15:

In page 41, to delete lines 27 to 31 and substitute the following:

“(c) by the substitution of the following subsections for subsections (4) and (5):

“(4) Subject to subsection (5), the Supervisory Authority may make regulations respecting the procedures to be followed in conducting enquiries under section 933 and investigations under section 934 or 935.

(5) There is no obligation to make regulations under subsection (4) with respect to a particular provision referred to in that subsection.”, and”.

This amendment is technical to provide for transitional matters relating to hearings, privileges and procedural rules of the IAASA. Section 39 makes a number of technical changes to certain rules regarding hearings, privileges and procedural rules of the IAASA set out in section 938 of the Companies Act 2014. Under the revised subsection (4), the IAASA must make regulations for new procedures to be followed under its amended powers with regard to how it conducts inquiries and investigations. There is a new requirement for the IAASA to publish these regulations on its website in subsection (6).

This amendment provides that there is no immediate obligation on the IAASA to put in place new regulations. This is because there will be a necessary time lag between the Bill being enacted and the implementation of the regulations, for example, to permit public consultation by the IAASA. In the meantime, certain powers will be operative without such regulations being required and existing regulations will continue to have effect until they are replaced.

Amendment agreed to.

Section 39, as amended, agreed to.

Sections 40 to 44, inclusive, agreed to.

SECTION 45

Chairman: Amendments Nos. 16 and 17 are related and may be discussed together.

Deputy Heather Humphreys: I move amendment No. 16:

In page 45, line 15, to delete “The Director” and substitute “Subject to subsection (7), the Director”.

This is a technical amendment to insert into section 45 a cross-reference to the new subsection (7) which is inserted by amendment No. 17. Section 45 gives the Director of Corporate Enforcement the power to impose sanctions on a director of a public interest entity where the Director of Corporate Enforcement finds that a director of a public interest entity has contributed to a breach of the rules of statutory audit by a statutory auditor or audit firm. Amendment No. 17 clarifies that the Director of Corporate Enforcement must inform the IAASA immediately of any sanction imposed on a director which prohibits the director from performing functions in audit firms or public interest entities. This is because the IAASA has a corresponding obligation to inform the EU Committee of European Audit Oversight Bodies immediately of all

such sanctions.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 17:

In page 45, between lines 18 and 19, to insert the following:

“(7) The Director shall immediately communicate to the Supervisory Authority particulars of any direction given by the Director under section 957C(2)(b).”.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 18:

In page 46, lines 27 and 28, to delete “there has been no investigation under Part 13 into the relevant conduct;” and substitute “no investigation under Part 13 into the relevant conduct has been commenced;”.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 19:

In page 46, line 32, to delete “the terms of the agreement” and substitute “without prejudice to the generality of the terms of the agreement, such terms”.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 20:

In page 47, line 1, to delete “The provisions” and substitute “Subject to subsection (6), the provisions”.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 21:

In page 47, between lines 14 and 15, to insert the following:

“(6) The necessary modifications referred to in subsection (3), in so far as section 957F is concerned, include reading that section as if—

(a) the following subsection were substituted for subsection (1) of that section:

‘(1) Subject to subsection (3), the Director shall, in so far as a relevant decision imposes a relevant sanction on a relevant director, as soon as is practicable, publish on his or her website particulars of the relevant contravention to which the relevant sanction relates, particulars of the relevant conduct, particulars of the relevant sanction imposed and particulars of the relevant director on whom the relevant sanction was imposed.’,

(b) subsections (2) and (4) of that section were deleted, and

(c) in subsection (5) of that section, the reference to ‘or (2)’ were deleted.

(7) Section 957I shall be disregarded for the purposes of a section 957E agreement.”.

Amendment agreed to.

Section 45, as amended, agreed to.

Sections 46 to 50, inclusive, agreed to.

SECTION 51

Deputy Heather Humphreys: I move amendment No. 22:

In page 51, between lines 32 and 33, to insert the following:

“ ‘penalty’ includes a sanction and a measure;”.

This is a technical amendment to align the language of the Bill with that of EU law. Both the EU audit directive and regulation refer to “sanctions and measures”. However, some of the provisions of this Bill refer to “penalty”. Accordingly, this amendment inserts a new definition for “penalty” to clarify that it includes a “sanction” and a “measure”.

As we are speaking on section 51, I would like to signal that I may be tabling further amendments to this section on Report Stage. This is a large section, inserting a whole new Part into the Companies Act 2014. It includes provisions relating to the approval of statutory auditors, duties of statutory auditors in particular with respect to independence, public oversight tasks such as continuing education and quality assurance inspections, international oversight arrangements, and obligations on the entities being audited such as rotation of auditors.

As the committee will appreciate, much of this is concerned with the technical requirements of statutory audit. While the Bill was published in November 2017, I am still receiving some comments of a technical nature with regard to the contents of this section. Furthermore, due to the fact that we are working within the context of the Companies Act, it may be necessary to make adjustments to other Parts of the Act to take account of this new Part. For example, there seems to be a need to ensure that there is consistency in the terminology here with that in Part 6 of the Act. In some places the Bill speaks of “consolidated financial statements” while in others it uses the term “group accounts”.

I will bring forward any further necessary amendments on Report Stage.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 23:

In page 75, line 31, after “1465” to insert the following:

“and a temporary prohibition referred to in point (c) of Article 30a(1) of the Audit Directive and a temporary prohibition (in so far as it relates to a member of an audit firm) referred to in point (e) of that Article”.

Amendment agreed to.

Chairman: Amendments Nos. 24 and 25 are related and may be discussed together.

Deputy Heather Humphreys: I move amendment No. 24:

In page 78, line 35, after “934E” to insert “and subject to subsection (9)”.

This amendment is technical and inserts a cross-reference to subsection (9) which is proposed

to be inserted by amendment No. 25. Amendment No. 25 is intended to clarify the text of section 1504. As required under Article 24 of the EU audit regulation, the IAASA has direct responsibility for quality assurance inspections of audits of public interest entities by statutory auditors and audit firms, investigations into statutory auditors and audit firms arising from these inspections, and sanctions on statutory auditors and audit firms of public interest entities.

A recognised accountancy body may wish to undertake an investigation into the audit of a public interest entity by a statutory auditor or audit firm that is a member of the body itself. However, only the IAASA may impose a sanction on the statutory auditor or audit firm of a public interest entity.

Section 1504 provides for certain actions to be taken after a recognised accountancy body has decided after an investigation that the statutory auditor or audit firm of a public interest entity has committed a breach and any appeal procedures have been completed. It also provides that in such a case the IAASA may impose a sanction on the statutory auditor or audit firm of the public interest entity having considered all the facts of the case.

This amendment inserts a new subsection (9) and provides that, prior to undertaking such an investigation, the body must in the first instance seek the consent of the IAASA and shall not commence an investigation until it has consent from the IAASA to do so.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 25:

In page 80, between lines 11 and 12, to insert the following:

“(9) (a) Subject to paragraph (b), where a recognised accountancy body is minded to commence an investigation of a statutory auditor or audit firm in respect of a statutory audit of a public-interest entity, it shall, before commencing such investigation and in the interests of assisting the Supervisory Authority to make a decision as to whether or not, instead of the investigation, it would be more appropriate for the Supervisory Authority to take action under section 934 or 934E, give the Supervisory Authority particulars of the auditor or audit firm and the public-interest entity and the grounds on which it is so minded.

(b) The recognised accountancy body shall not commence an investigation referred to in paragraph (a) until it has the consent in writing of the Supervisory Authority to do so.”.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 26:

In page 94, line 23, to delete “may” and substitute “shall”.

This amendment is intended to clarify the obligation on an audit committee of a public interest entity in new section 1529. Section 1529 provides that the auditor of a public interest entity prepares a report that is additional to the usual audit report. This “additional report” is submitted to the audit committee and directors of the entity and its purpose is to give greater detail on the audit. The contents of this additional report are set out in Article 11 of the audit regulation. The report must include, for example, descriptions of the scope and timing of the

audit, methodologies used and judgments made in the course of carrying out the audit.

Section 1529 goes on to exercise a member state option at Article 11.1 of the EU directive which permits the audit committee to disclose the additional report to such third parties as specified in national law. There are six bodies set out in this section who may request this report. They are the Central Bank, the Revenue Commissioners, the Director of Corporate Enforcement, the IAASA, the Workplace Relations Commission and any body responsible for the regulation of a public interest entity.

This amendment clarifies that the additional report “shall” be disclosed by the audit committee of a public interest entity to certain public bodies on request. This is a clearer obligation on the audit committee than the original word “may”.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 27:

In page 95, between lines 16 and 17, to insert the following:

“(3) (a) The Central Bank may, by notice in writing given to a statutory auditor or audit firm, require the auditor or firm to give it, within the period specified in the notice, additional information if such information is necessary for effective financial market supervision as provided for in the law of the State.

(b) The statutory auditor or audit firm the subject of a notice under paragraph (a) shall comply with the notice.”.

This amendment is proposed to rectify an oversight whereby text contained in the heads of the Bill was not included in the Bill as initiated. Article 12 of the EU audit regulation places an obligation on statutory auditors of public interest entities to report certain information where they become aware of it while carrying out an audit of the entity. The information is concerned with a material breach of the laws, regulations or administrative provisions which lay down, where appropriate, the conditions governing authorisation or which specifically govern pursuit of the activities of such public interest entities, a material threat or doubt concerning the continuous functioning of the public interest entity, and a refusal to issue an audit opinion on the financial statements or the issuing of an adverse or qualified opinion.

There is also an option at Article 12.1 that permits member states to request additional information from statutory auditors or audit firms of public interest entities provided it is necessary for effective financial market supervision as provided for in national law. As indicated to Deputies in the briefing on the Bill, the Government intends to exercise this option. Accordingly, amendment No. 27 inserts a provision to state that the Central Bank is the authority that can request this information from a statutory auditor or audit firm.

Amendment agreed to.

Chairman: Amendments Nos. 28 and 29 are related and will be discussed together. Is that agreed? Agreed.

Deputy Heather Humphreys: I move amendment No. 28:

In page 121, line 21, to delete “Subject to subsection (6)” and substitute the following:

“(a) Subject to paragraph (b), subsection (6)”.

This is a technical amendment to insert a cross-reference to a new subsection (6). The subsection is proposed to be inserted by amendment No. 29, which is a clarification. Section 51 inserts a new section 1573 which is concerned with the registration of third country auditors and third country audit entities. Those third country auditors and third country audit entities whose country's oversight systems have been deemed to be equivalent by the European Commission will be required to have their details included in the public register of auditors held by the Registrar of Companies. These auditors will be able to perform audits of certain undertakings incorporated in third countries, the transferable securities of which are admitted to trading on the Stock Exchange in Ireland. The details of the third country auditors and third country audit entities whose country's oversight systems are deemed to be in a transitional period by the European Commission will not be required to be included in the public register but will be made public by means of the IAASA's website. The difference in treatment is due to the different status that applies to the third countries, the systems of which are deemed to be equivalent and those that are still in transition, according to the European Commission's different determinations.

Amendment No. 29 clarifies that the auditors in the latter group will not be caught by the requirements in section 1573(1) in respect of the public register.

Amendment agreed to.

Deputy Heather Humphreys: I move amendment No. 29:

In page 121, between lines 27 and 28, to insert the following:

“(b) Paragraph (a) shall not apply to a third-country auditor or third country audit entity that provides audit reports concerning the annual or group financial statements of undertakings incorporated in third countries in respect of which—

(i) the Commission has not yet made a decision that the public oversight, quality assurance and investigation and penalty systems for third-country auditors and third-country audit entities meet requirements which shall be considered equivalent to those of Articles 29, 30 and 32 of the Audit Directive, or

(ii) such a decision was made but for a specified period of time which has now expired.”.

Amendment agreed to.

Section 51, as amended, agreed to.

NEW SECTION

Deputy Heather Humphreys: I move amendment No. 30:

In page 128, between lines 38 and 39, to insert the following:

“Amendment of Schedule 5 to Principal Act

52. Schedule 5 to the Principal Act is amended by the substitution of the following paragraph for paragraph 5:

“5. A company or undertaking engaged in the business of accepting deposits or other repayable funds from the public and granting credit for its own account.”.

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I am proposing this technical amendment for consistency. It arises from changes made last year to the Companies Act 2014. The amendment inserts a new section into the Bill.

The definition of a credit institution in section 275 of the Companies Act 2014 was amended by means of the Companies (Accounting) Act 2017 in order to align it more closely with the definition included in EU law. The definition included in section 275 in respect of one aspect in paragraph (c) is now different from what is included in paragraph 5 of Schedule 5 to the Companies Act 2014. Therefore, the purpose of the amendment is to reflect the changes made in section 275 in order that the definitions will be consistent in both places in the 2014 Act.

Amendment agreed to.

Sections 52 to 74, inclusive, agreed to.

Schedules 1 and 2 agreed to.

Title agreed to.

Bill reported with amendments.

Chairman: I thank the Minister and her officials for attending. I remind members that as Report Stage may be ordered at short notice, it is recommended that Report Stage amendments, if any, be submitted to the Bills Office as soon as possible.

Message to Dáil

Chairman: In accordance with Standing Order 90, the following message will be sent to the Dáil:

The Select Committee on Business, Enterprise and Innovation has completed its consideration of the Companies (Statutory Audits) Bill 2017 and made amendments thereto.

The select committee adjourned at 3.30 p.m. until 4 p.m. on Tuesday, 27 February 2018.