

THE COMPANIES (ACCOUNTING) ACT 2017

Introduction

The Companies (Accounting) Act 2017 (the “Act”) became active on 9 June 2017 and transposes the EU Accounting Directive 2013/34/EU into Irish law. The main objective of the Act is to make the financial reporting and filing obligations of smaller companies less onerous. The Act impacts funds established as UCITS/AIFMD compliant investment companies (collectively “Investment Companies”) under the Companies Act 2014 and UCITS/AIFMD compliant Management Companies established as LTD companies. The Act does not apply to funds established as Irish Collective Asset-management Vehicles (“ICAVs”), Unit Trusts or Common Contractual Funds (“CCFs”).

Obligation on Investment Companies to File Annual Audited Financial Statements

The Act introduces an obligation for Investment Companies to file annual audited financial statements with the Companies Registration Office (“CRO”). Investment Companies had previously been exempt from this obligation due to detailed filing requirements they have with the Central Bank of Ireland. Under the Act, Investment Companies will now be required to file a number of documents with the CRO within eleven months of their financial year-end. These documents are:

- The statutory financial statements of the investment company for the financial year;
- The directors’ report; and
- The statutory auditors’ report on the financial statements and the directors’ report.

This change will apply to financial periods beginning on or after 1 January 2017. For an Investment Company with a financial year commencing on 1 January 2017, the first deadline for filing the above documents with the CRO will be 30 November 2018.

It will be interesting to observe whether this requirement to publicly disclose financial statements may result in a number of Investment Companies converting to an ICAV structure where this filing obligation with the CRO does not exist.

New Annual Audit Report Requirement

As a result of the Act, annual reports for Investment Companies will now need to be audited in accordance with the European Union (Statutory Audits) directive. The Act also updates both the UCITS Regulations and the AIFM Regulations to require that the auditor’s report of a UCITS fund or AIF be prepared in compliance with the Companies Act.

Small and Micro Company Exemptions

Where a company qualifies under the Act as a “small company” (turnover under €12 million and less than fifty employees) or “micro company” (turnover under €700,000 and less than ten employees), it will be able to file abridged financial statements, as well as qualify for an audit exemption. However, while both Investment Companies and Management Companies may fulfil the thresholds set out in the Act to qualify as small/micro companies, they cannot benefit from the small/micro companies regime, as they constitute “ineligible entities” within the meaning of the Act.

Other Key Changes in the Act

In addition to the changes outlined above, there are other provisions in the Act which will impact both Investment and Management Companies. These include:

- A company will now be able to change their accounting framework from IFRS to Companies Act entity financial statements every five years, regardless of a “relevant change in circumstance”.
- A company must now disclose consideration paid to third parties for director services.

- A company must now disclose the reason for any change in accounting policy in the financial statements. The impact of the change in accounting policy must also be disclosed.

KB Associates' Services

KB Associates offers a range of services to investment funds including:

- The provision of UCITS/AIF Management Company services;
- The provision of designated persons to perform UCITS business plan and AIFMD programme of activity managerial functions; and
- The provision of UCITS/AIF operational support.

If you would like to discuss any issues raised in this article or related to KB Associates' services in general, please feel free to contact Mike Kirby (+353 1 667 1980), Peter Northcott (+44 203 170 8813) or Mike Parton (+1 345 946 4224).