

# New Threshold for Shareholding Disclosure in Certain Irish Issuers

COMPANIES ACT 2014

With the commencement of the Companies Act 2014 of Ireland on 1 June 2015, the threshold for the purpose of the Irish statutory regime for disclosure of interests in certain Irish issuers has been reduced from 5% to 3%.

The change of law renders notifiable within the statutory deadline existing interests which meet or exceed the disclosure threshold, including in circumstances where there has been no dealing.

## Which Issuers?

Ireland operates two principal regimes for the notification of interests in securities: a regime implementing the EU Transparency Directive (2004/109/EC) in Ireland that is applicable to securities admitted to trading on an EU regulated market (such as the Main Markets of the Irish Stock Exchange and the London Stock Exchange) and a separate and independent regime for the reporting of “interests” in relevant share capital of public limited companies incorporated in Ireland irrespective of whether the shares are listed on a stock exchange.

This separate and independent regime requires reporting of interests in a residual category of Irish public limited companies, not being Irish companies whose shares are admitted to trading on an EU regulated market, including:

- Irish public limited companies with shares admitted to listing on markets which are not EU regulated markets such as the London Stock Exchange’s AIM Market and the Irish Enterprise Securities Market (“**ESM**”), NYSE and NASDAQ; and
- unlisted Irish public limited companies.

## Disclosure thresholds

From the commencement of the Companies Act 2014, this statutory disclosure regime (replacing the regime previously set out in Part IV of the Companies Act 1990) requires notification of interests in, and changes to interests in, 3% or more of the “relevant share capital” or of any class of “relevant share capital”, of those companies in scope.

The percentage holdings under the Companies Act 2014 are calculated either by reference to the total amount of shares in issue of the issuer or by reference to the relevant class of shares of the issuer.

In summary, the notification obligation arises where there is a change in the percentage of shares in which a person has an interest:

- a) from below to above the 3% threshold; or
- b) from above to below that threshold; or
- c) where 3% is exceeded both before and after the transaction, but the percentage level, in whole numbers, changes (fractions of a percentage being rounded down).

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“Relevant share capital” is defined as issued share capital carrying the right to vote in all circumstances at general meetings of the company. “Issued” is not defined but, in accordance with its normal construction, is taken to mean shares which are registered in the relevant company’s register (which would include CREST electronic registration).

### **When does the obligation to notify arise?**

The obligation to notify is based on knowledge; the obligation arises where a person knowingly acquires an interest, or knowingly ceases to be interested, in shares or becomes aware that he has acquired an interest, or ceased to be interested, in shares.

The obligation also arises where, without any acquisition or disposal of shares by him, a person becomes aware of a change of circumstances which renders an existing interest notifiable or brings the percentage level of his interest across the 3% threshold (for example, the commencement of the Companies Act 2014, the conversion of a private company into a public limited company, or a share redemption or buy-back).

The notification obligation rests with the person acquiring or disposing of the interest in the public limited company. The notification, containing prescribed details, must be made in writing to the public limited company within five days next following the day on which the obligation to notify arises.

The range of notifiable interests under this regime is wide. An “interest of any kind whatsoever” in shares, disregarding “any restraints or restrictions to which the exercise of any rights attached to the interest may be subject”, is potentially notifiable under the legislation, unless an exemption applies.

### **Companies Act 2014**

The Companies Act 2014 came into effect on 1 June 2015. The Act consolidates the previous Irish Companies Acts and many of the related statutory instruments into a single statute and introduces significant reforms to Irish company law. The Act is intended to make it easier for a company to do business in Ireland, whether domestically or by using Ireland as a regional or a global base. Although the Act emphasises efficiency and simplicity, it is itself the largest piece of legislation in the history of the State.

For further information on the Companies Act 2014, please consult our website:

[www.mccannfitzgerald.ie](http://www.mccannfitzgerald.ie)

This document is for general guidance only and should not be regarded as a substitute for professional advice. Such advice should always be taken before acting or refraining to act on any of the matters discussed.

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