

The Companies Act 2014 (the **Act**) provides that during the transition period which commenced on 1 June 2015, all private limited companies must chose to convert to one of two new types of company – the LTD or the DAC (designated activity company). There are some important dates approaching which private limited companies should be aware of, which are set out below.

LTD or DAC?

Some of the contrasting features of the two types are:

LTD	DAC
<ul style="list-style-type: none"> • May have only 1 Director • Not required to hold an AGM • One-document constitution replaces memorandum and articles of association. No “objects” clause because it has full unlimited capacity; cannot carry on the activity of a credit institution or insurance undertaking. • Cannot offer shares or securities to public - cannot list securities • “Limited” or “Teoranta” 	<ul style="list-style-type: none"> • Must have at least two directors • Must have an AGM if more than 1 shareholder • Constitution includes a memorandum and articles of association. Stated objects for which the company was incorporated. Can carry on the activity of credit institution, insurance undertaking. • Can list debt securities • Designated Activity Company or “Cuideachta Ghníomhaíochta Ainmnithe”

CREDIT INSTITUTION?

The Act does not allow companies which are “credit institutions” to be LTDs. The definition of credit institution is very broad and appears to include private limited companies that lend money in the ordinary course of business. This is an anomaly in the Act which is expected to be rectified, but in the meantime any company which engages in lending as a matter of course could fall within the definition in the Act and should reregister as a DAC before 31 August 2016.

ACTIONS: REREGISTER AS LTD	ACTIONS: REREGISTER AS DAC
<p>Before 30 November</p> <ul style="list-style-type: none"> • Special resolution of shareholders • Revised constitution (no memorandum) • Form N1 	<p>Before 31 August</p> <ul style="list-style-type: none"> • Ordinary resolution of shareholders • Revised memorandum and articles • Form N2 • Changes to stationery, website, registrations etc.

FAILURE TO REREGISTER

If a company does nothing, it will automatically convert to the LTD model at the end of the transition period (1 December 2016). If this happens, the company will be deemed to have a constitution comprised of its existing memorandum and articles of association (excluding the objects clause and any restriction on amending the memorandum and articles). These may not “work” well with the Act, giving rise to uncertainty and confusion around the company’s regulations.

KEY DEADLINE DATES

**31
AUG
2016**

**Decision Time
LTD or DAC?**

**31
AUG
2016**

**Credit institutions must
re-register as DAC**

BEFORE:

**30
NOV
2016**

LTD

**31
AUG
2016**

DAC

End of transition period.

**01
DEC
2016**

**No action taken =
automatically an LTD**

OTHER COMPANIES

Before 30 November 2016

The Act provides that the names of all unlimited companies must end with the words “unlimited company” or “cuideachta neamhtheoranta” which can be shortened to uc, u.c. c.n. or cn. The names of companies limited by guarantee must end with the words “company limited by guarantee” or “cuideachta faoi theorainn rathaiochta” which can be shortened to clg, c.l.g., c.t.r. or ctr as the case may be. Unlimited companies and companies limited by guarantee are required to file a form N3 with the CRO before 30 November 2016, registering the new suffix. If this is not done, the CRO will change the name of the company and

issue a new certificate of incorporation in any event. After 1 December 2016, the CRO will not accept and filings with the incorrect form of the company name. Care must be taken by unlimited companies and companies limited by guarantee, from 1 December 2016, to ensure that, unless they are permitted to dispense with the relevant suffix they do not carry on business under a name which give the impression that they are anything other than a clg or uc as the case may be. The change to the name will also trigger a requirement to make changes to stationery, website, registrations etc.

KEY DEADLINE DATES

30
NOV
2016

File Change of Name

01
DEC
2016

Automatic change of name

ACCOUNTING REQUIREMENTS

The Act introduced some new reporting requirements which will take effect in the first financial year of the relevant company commencing after 1 June 2015. For many companies that will be the year commencing 1 January 2016.

Relevant provisions include:



DIRECTORS COMPLIANCE STATEMENT

If the company has a turnover of more than €25m and a balance sheet total of more than €12.5m



AUDIT COMMITTEE

If the company has a turnover of more than €50m and a balance sheet total of more than €25m in the current and previous financial year



DIRECTORS REPORT

Directors report to contain a statement that each director has taken steps to ensure he is aware of all relevant audit information & to inform the auditors