

Directors' compliance statement and related statement

225. (1) In this section—

“amount of turnover” and “balance sheet total” have the same meanings as they have in section 350;

“relevant obligations”, in relation to a company, means the company's obligations under—

(a) this Act, where a failure to comply with any such obligation would (were it to occur) be—

(i) a category 1 offence or a category 2 offence; or

(ii) a serious Market Abuse offence or a serious Prospectus offence;

and

(b) tax law;

“serious Market Abuse offence” means an offence referred to in section 1368;

“serious Prospectus offence” means an offence referred to in section 1356;

“tax law” means—

(a) the Customs Acts;

(b) the statutes relating to the duties of excise and to the management of those duties;

(c) the Tax Acts;

(d) the Capital Gains Tax Acts;

(e) the Value-Added Tax Acts;

(f) the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act;

(g) the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act; and

(h) any instruments made under an enactment referred to in any of paragraphs (a) to (g) or made under any other enactment and relating to tax.

(2) The directors of a company to which this section applies shall also include in their report under

section 325 a statement—

(a) acknowledging that they are responsible for securing the company's compliance with its relevant obligations; and

(b) with respect to each of the things specified in subsection (3), confirming that the thing has been done or, if it has not been done, specifying the reasons why it has not been done.

(3) The things mentioned in subsection (2)(b) are—

(a) the drawing up of a statement (to be known, and in this Act referred to as, a “compliance policy statement”) setting out the company's policies (that, in the directors' opinion, are appropriate to the company) respecting compliance by the company with its relevant obligations;

(b) the putting in place of appropriate arrangements or structures that are, in the directors' opinion, designed to secure material compliance with the company's relevant obligations; and

(c) the conducting of a review, during the financial year to which the report referred to in subsection (2) relates, of any arrangements or structures referred to in paragraph (b) that have been put in place.

(4) The arrangements or structures referred to in subsection (3)(b) may, if the directors of the company in their discretion so decide, include reliance on the advice of one or more than one person employed by the company or retained by it under a contract for services, being a person who appears to the directors to have the requisite knowledge and experience to advise the company on compliance with its relevant obligations.

(5) For the purposes of this section, the arrangements or structures referred to in subsection (3)(b) shall be regarded as being designed to secure material compliance by the company concerned with its relevant obligations if they provide a reasonable assurance of compliance in all material respects with those obligations.

(6) If default is made in complying with subsection (2), each director to whom the default is attributable shall be guilty of a category 3 offence.

(7) Subject to subsection (8), this section shall apply to a company if, in respect of the financial year of the company to which the report referred to in subsection (2) relates—

(a) its balance sheet total for the year exceeds—

(i) subject to subparagraph (ii), €12,500,000; or

(ii) if an amount is prescribed under section 943 (1)(i), the prescribed amount;

and

(b) the amount of its turnover for the year exceeds—

(i) subject to subparagraph (ii), €25,000,000; or

(ii) if an amount is prescribed under section 943 (1)(i), the prescribed amount.

(8) This section does not apply to any company that is of a class exempted under section 943 (1)(g) from this section.