

Recommendation	Follow-up/Action	Responsible Department/Bodies	Comments of Company Law Review Group
Chapter 11: Other Regulatory Shortcomings			
Recommendation 11.1			
<p>The Companies Acts should be changed:</p> <ul style="list-style-type: none"> • to compel individually authorised auditors either to become members of recognised accountancy bodies or at a minimum to be regulated by them; • to provide for the suspension or revocation by the Oversight Board of an individual authorisation for failure to comply with or to meet the body's competency and other standards for the conduct of audit work following a transition period of three years. 	<p>Amendment to Companies Acts</p> <p>Include in Work Programme of Oversight Board</p>	<p>Department of Enterprise, Trade and Employment in consultation with Accountancy Bodies</p>	<p>This is desirable and will clear up an existing anomaly.</p>
Recommendation 11.2			
<p>The Companies Acts should be changed to prohibit persons holding themselves out as an auditor, regulated auditor or registered auditor for the purposes of the Companies Acts, without being qualified to do so.</p>	<p>Amendment to Companies Acts</p>	<p>Department of Enterprise, Trade and Employment</p>	<p>Desirable.</p>
Recommendation 11.3			
<p>The Oversight Board should, from time to time, review:</p> <ul style="list-style-type: none"> • the extent to which accountancy and related services are being provided by persons who are not subject to its remit; • whether this is having any material adverse impact on the overall effectiveness of the regulatory framework; and • if so, make recommendations to the Minister for Enterprise, Trade and Employment for any appropriate remedial action. 	<p>Include in Work Programme of Oversight Board</p>	<p>Oversight Board</p>	<p>It would be useful to spell out in more detail that what is envisaged is a complaints procedure rather than regulation; the intention being that the Oversight Board could take appropriate action where systemic problems came to its attention. It would be appropriate to spell out whatever monitoring the board will do.</p>
Recommendation 11.4			
<p>Appropriate legal or other co-operation arrangements should be sought with EU and other relevant jurisdictions to enable auditors who are not in the State to be brought to account for any breaches of the Companies Acts or similar legislation.</p>		<p>Department of Enterprise, Trade and Employment</p>	<p>The matter to be raised in the EU Committee on Auditing (via letter to Commission in advance of Committee meeting in November).</p>

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Recommendation 11.5			
<p>The Review Group recommends that:</p> <ul style="list-style-type: none"> the Registrar of Companies should permanently display an up-to-date list of qualified auditors on the CRO Website; each recognised accountancy body should maintain on its website or in hard copy form an up-to-date list of members, identifying, inter alia, the status of each member and the nature of the activity which each is authorised to undertake. 	Action by CRO and Accountancy Bodies	CRO and Accountancy Bodies	<p>With regard to both of these recommendations there needs to be a degree of flexibility on the time limits; CRO to be absolved from possibility of being sued on foot of errors in published list.</p> <p>The Oversight Board should have the power to specify what the Accountancy Bodies must display on their websites as regards the status of members, e.g. recognised auditor (or registered insolvency practitioner, should that become regulated). There should be a legal obligation on recognised bodies to supply the information.</p>
Recommendation 11.6			
<p>The Registrar of Companies should, as a matter of urgency, arrange that his Office:</p> <ul style="list-style-type: none"> institute a systematic checking of the annual returns of companies to ensure that the person who signs the audit report attached to those returns is a qualified auditor registered on the register of auditors maintained by his Office under section 198 of the Companies Act 1990; inform the proposed Office of the Director of Corporate Enforcement of the identity of any non-qualified person who has acted as auditor to a company, so that enforcement action under section 187 of the 1990 Act can be considered. 	Action by CRO	CRO and Director of Corporate Enforcement	<p>Desirable. It is noted that a resource issue arises for the CRO. The CRO to be protected from suits on foot of errors in checking.</p> <p>In the event of a non-qualified person signing the report there should be a requirement on the CRO to inform the company directors (and, if relevant, the professional body to which the non-qualified person claimed to belong) as well as the Director. The purpose of this would be to have the company directors get a proper audit done.</p>
Recommendation 11.7			
<p>The Companies Acts should require that the annual audit reports for unlimited companies (and for other exempted companies as defined in section 2(1) of the Companies (Amendment) Act 1986) be promptly filed with the Registrar of Companies after the end of their financial year.</p>	Amendment to Companies Acts	Department of Enterprise, Trade and Employment/CRO	<p>Desirable. The annual return for unlimited companies should contain a statement by the directors confirming that accounts have been prepared and audited. There should, in addition, be a requirement to include a consent statement from the auditor approving the filing of the audit report with the annual return to CRO.</p> <p>No objection would be seen to applying audit exemption to unlimited companies at the same level as it applies to limited companies.</p>

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Recommendation 11.8			
Section 194(2) of the Companies Act 1990 should be reviewed, in order to establish if more precise guidance can be provided to auditors on when company directors have taken (or not taken as the case may be) the necessary steps to comply with section 202 of the 1990 Act which requires, inter alia, the keeping of proper books of account.	Company Law Review Group to undertake review and if necessary amendment to Companies Acts	If necessary, Department of Enterprise, Trade and Employment	There is no evidence that legislative amendments are necessary at this point. It is noted that the Accountancy bodies are wary about trying to specify "necessary steps" in law.
Recommendation 11.9			Desirable.
All recognised accountancy bodies should adopt a risk-based approach to the selection of members/member firms for monitoring visits, with those members in larger practices or having audit clients in higher risk categories (e.g. those operating in the financial area) receiving more frequent scrutiny.	Accountancy Bodies amend monitoring/ quality review systems	Accountancy Bodies	Desirable.
Chapter 12: Auditor Independence			
Recommendation 12.1			
There is a need to introduce additional safeguards to protect the independence of an auditor of a client company from the threat posed by the provision of non-audit services to the client company. This is best achieved through the development and maintenance of a framework for auditor independence.	Recs 12.1 to 12.9 outline how the framework will be developed and introduced	Department of Enterprise, Trade and Employment Accountancy Bodies Oversight Board	It is noted that there is a lot of debate internationally about this issue – particularly in the US and at EU level. It is important that whatever is done in Ireland is consistent with international developments.
Recommendation 12.2			
Non-audit fees paid by a company to their audit firm and the nature of the services provided should be disclosed and analysed in adequate detail in the annual financial statements.	Amendment to Companies Acts	Department of Enterprise, Trade and Employment Accountancy Bodies: Develop practice note that provides guidance to ensure consistent delineation between audit/non-audit fees	Further consideration would be useful in order to determine the services which fit with audit services. For example, it is noted that the list of non-audit items in the EU recommendation is much more discursive than that used by the SEC.

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<p>Recommendation 12.3</p>	<p>Amendment to Companies Acts</p>	<p>Department of Enterprise, Trade and Employment</p>	<p>Feasible.</p> <p>The question of auditors' independence should be a matter for judgment by the Audit Committee and not something for which criteria should be set down in legislation.</p> <p>It is desirable that the Audit Committee should set a broad policy in advance for engaging work from the auditors. The Committee could agree a budget for non- audit fees (without specific contract by contract approval) but with a requirement for advance approval of particularly significant contracts or a contract or contracts in excess of the audit contract.</p> <p>A "reasonably satisfied" obligation on the Audit Committee would be preferable to a "satisfied" obligation.</p>
<p>Recommendation 12.4</p>	<p>New audit standard</p>	<p>Accountancy Bodies to develop audit standard</p> <p>Oversight Board to monitor</p>	<p>Rules should be applied sensibly, to include associated and affiliated firms, and should be based on like for like comparisons. Above all there will be a need to prevent avoidance of this provision through separate incorporation.</p> <p>The Company Law Review Group considered appropriate definitions for groups but concluded that on balance it would not be helpful to come up with further definitions. The definitions as provided for in Company Law or regulations should be adhered to.</p>

Recommendation	Follow-up/Action	Responsible Department/Bodies	Comments of Company Law Review Group
<p>Recommendation 12.5</p> <p>The Review Group recommends that the following principles apply in relation to non-audit services:</p> <ul style="list-style-type: none"> • audit firms should not audit their own work; • audit firms should not provide non-audit services to an audit client that affect the numbers in the financial statements such as valuation; • audit firms should not provide internal audit services. <p>A professional standard should be developed (in the manner outlined in Chapter 8 Section 2.4) that prohibits the provision of specified non-audit services by an audit firm to an audit client company.</p> <p>The Oversight Board should be empowered to impose a professional standard, prepared by the Oversight Board, on the professional accountancy bodies to address this issue. However, this power should only be exercised where an undue amount of time is being taken to develop the standard.</p>	<p>Auditing standard to be developed that will list in more detail the type of valuation services that are not permitted.</p> <p>Company Law Review Group could consider the type of valuation services that should not be permitted.</p>	<p>Accountancy Bodies to develop audit standard</p> <p>Oversight Board to impose standard if the Accountancy Bodies fail to develop standard within reasonable timescale</p>	<p>Desirable. It should be ensured that the implementation of this recommendation agrees with the forthcoming EU Recommendation on Auditor Independence. The EU Directive of itself may not enable exemption for small and medium sized companies as recommended by the Report on Auditing. There is a difficulty in getting a clear definition of valuation services which are considered inappropriate. The Company Law Review Group also questioned the ban on internal audit given that at present the EU proposes to permit it in certain circumstances and the SEC is likely to permit certain internal audit services.</p> <p>Particular care is advised in the drafting of the legislative provision banning the auditing of own work. For example, the provision should not prevent auditors from giving advice on bookkeeping improvements.</p>
<p>Recommendation 12.6</p> <p>The audit engagement partner and staff of a firm should be presumed to know everything relevant to the audit of a client company that other partners in the firm or an associated firm are aware of in relation to the company. A firm appointed as auditor of a company needs to have in place appropriate procedures to ensure that the partner responsible for the audit function is made aware of any other relationship which exists between any department of the audit firm and the company when that relationship could affect the audit firm's responsibilities as auditors.</p>	<p>Auditing standard</p>	<p>Accountancy Bodies</p>	<p>Desirable. It is presumed that this recommendation is to operate on a single client basis. Information learned about a client in the course of an audit for another client will not be covered.</p>
<p>Recommendation 12.7</p> <p>Audit firms should be required to set out their general policy concerning risks to auditor independence and to document how risks to auditor independence are dealt with in relation to individual client companies during an audit. The general policy of the firm towards the identification and management of risks to audit independence should be set out in the letter of engagement. Information relevant to the management of risk during the audit engagement should be included in the management letter or a separate letter addressed to the Audit Committee.</p>	<p>Amendment to Ethical Guidelines of Accountancy Bodies</p>	<p>Accountancy Bodies</p>	<p>Desirable.</p>

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Recommendation 12.8			
<p>The audit contract should be awarded on an annual basis in an open and transparent manner. This should include consideration by audit committees on an annual basis whether to put the audit contract out to tender. The audit committee should justify its decision in its recommendation to shareholders on the appointment of auditors as outlined in Recommendation 13.4.</p>	Amendment to Company Law	Department of Enterprise, Trade and Employment	Feasible. Important that the Audit Committee should have regard to the quality of the audit.
Recommendation 12.9			
<p>The Oversight Board should undertake, within three years, a review of the level of non-audit fees and should make known its judgment as to whether or not any new rules are required to safeguard auditor independence.</p>	Include in work programme of Oversight Board	Oversight Board	Desirable.
Chapter 13: Corporate Governance Structures and the External			
Audit			
Recommendation 13.1			
<p>Boards of Directors of PLCs, financial institutions and public interest companies should be required by legislation to establish audit committees the membership of which is made up of non-executive directors.</p>		Department of Enterprise, Trade and Employment	<p>PLCs : Only listed PLCs ought to be included. If other PLCs are to be included, then there should be exclusions for IFSC licensed companies and PLCs with less than 50 members, so as to exclude special purpose vehicles and companies which are subsidiaries of groups.</p> <p>Financial Institutions : The application of the recommendation to all financial institutions is not desirable. IFSC licensed companies ought not to be covered as they are already heavily regulated by the Central Bank and as they tend to be wholly-owned subsidiaries of large public companies. Similarly, investment funds established in the form of PLCs should not be included. Smaller financial institutions should also be exempt, e.g. small and medium-sized credit unions.</p> <p>Public Interest Companies: The Company Law Review Group recognizes that there is a particular difficulty in attempting to compile an exhaustive definition of public interest companies to embrace all the entities targeted by the Review Group on Auditing. Financial institutions can be dealt with as such (see above).</p>

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Recommendation 13.2			
Audit committees should have regular meetings each year.	Amendment to Company Law	Department of Enterprise, Trade and Employment	Feasible, but the Company Law Review Group queries whether this should more appropriately be done via a Code rather than legislation, e.g. the Stock Exchange rules, if Recommendation 13.1 only applies to listed companies.
Recommendation 13.3			
Each audit committee should have a formal written charter, approved by the Board of Directors, that specifies the scope of the committee's responsibilities and how it carries out those responsibilities, including structure, processes and membership requirements.	Amendment to Company Law	Department of Enterprise, Trade and Employment	Feasible. Should be done via a Code of Practice.
Recommendation 13.4			
Shareholders should approve the appointment of auditors and set their fees, based on a recommendation from the audit committee rather than management, as is currently the case. This should include a consideration on whether it is appropriate, or not, in any given year to change auditors or to send the audit contract out to tender as outlined in Recommendation 12.8.	Amendment to Company Law	Department of Enterprise, Trade and Employment	Desirable. It is important to reinforce the need for quality in audits.
Recommendation 13.5			
<p>In its charter, the audit committee should be given the following responsibilities:</p> <ul style="list-style-type: none"> • ensuring receipt from the external audit firm of a formal written statement outlining all current and relevant previous business and personal relationships between the audit firm and the company; • for actively engaging in a dialogue with the audit firm so that all relationships that may impact on the objectivity and independence of the auditor are fully disclosed; • approving the procedures for the appointment of the audit firm to provide any other services; • assessing and approving in advance all contracts with the audit firm having regard to all business and personal relationships between the company and its audit firm; • monitoring the number of former employees of the audit firm currently employed in senior positions in the company and assessing its impact on auditor independence; 	Amendment to Company Law	Department of Enterprise, Trade and Employment	<p>In the Company Law Review Group's view a Code of Practice is more appropriate than legislation. A code is more easily amended. Such a code should be drawn up by the Director of Corporate Enforcement and prescribed by Minister. A breach of the code could not of itself constitute an offence but the court could take account of such a code in proceedings before it. The Director should have a role in enforcement.</p> <p>The inclusion of a requirement to monitor the incidence of former employees of the auditor being employed by the client firm is questioned. Such a provision would require significant record-keeping on individuals and would be unique to Ireland.</p>

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<ul style="list-style-type: none"> • reviewing the audit firm's statement concerning their general policy to risks to independence (see recommendation 12.7); • approving in advance any contracts with the audit firm payment of which will be made on a contingency basis. 			
Recommendation 13.6			
<p>Audit committees of companies should meet their external auditor a number of times each year, both in the presence of management and independent of management. Such meetings must be held at both the planning stage of the audit and following the completion of the audit.</p>	Amendment to Company Law	Department of Enterprise, Trade and Employment	To be dealt with in Code of Practice.
Recommendation 13.7			
<p>Management letters from auditors to the Board of Directors should refer to the existence of any other audit related letters (e.g. letters of detail) and should make these available to the Board and the audit committee on request.</p>	Amendment to Company Law	Department of Enterprise, Trade and Employment	To be dealt with in Code of Practice.
<p>Management letters should be available to the Board and the audit committee in advance of approval of the financial statements. Given the tight reporting deadlines, a preliminary draft containing all issues but possibly excluding some management responses is acceptable.</p>			
<p>Audit committees should establish a time frame within which management responses should be received in respect of management letters, internal audit reports and any other audit related letters (e.g. letters of detail).</p>			

Recommendation	Follow-up/Action	Responsible Department/Bodies	Comments of Company Law Review Group
Recommendation 13.8			
All PLCs, financial institutions and public interest companies should have a properly resourced internal audit function set up independently of management and the external auditor.	Amendment to Company Law	Department of Enterprise, Trade and Employment	Desirable, but note definition and size issues raised at 13.1.
Recommendation 13.9			
Audit Committees should meet the internal auditors regularly at times without management present.	Amendment to Company Law	Department of Enterprise, Trade and Employment	Feasible, should be applied through Code of Practice.
Recommendation 13.10			
The internal auditor's appointment should be endorsed by the audit committee and internal audit reports to the Board and to the audit committee should be retained for six years.	Amendment to Company Law	Department of Enterprise, Trade and Employment	Desirable.
Recommendation 13.11			
Internal audit programmes, and all internal audit reports and findings, should be made available to the external auditor at the earliest possible opportunity.	Amendment to Company Law	Department of Enterprise, Trade and Employment	Desirable.
Recommendation 13.12			
Audit Committees should prepare an annual report for presentation to the shareholders. This should include their view on the Directors' compliance report. (Recommendation 14.1)	Amendment to Company Law	Department of Enterprise, Trade and Employment	Desirable.
Recommendation 13.13			
The above recommendations concerning the duties of audit committees and their relationships with external auditors and internal auditors should be set out in legislation for PLCs, financial institutions and public interest companies.	See above	Department of Enterprise, Trade and Employment	Some of the recommendations are more appropriate for a Code of Practice.

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Chapter 14: Compliance with Statutory Provisions: The Role of the External Auditor			
Recommendation 14.1			
<p>Directors of a company should be required to report on an annual basis to the shareholders on the company's compliance with its obligations under company law, taxation law or other relevant statutory or regulatory requirements. The report should confirm that any instances of non-compliance have been reported to the relevant regulatory authority and that in all other respects the company has complied with its obligations under company law, taxation law and other relevant statutory or regulatory requirements. The report should be appended to the annual financial statements.</p>	<p>Amendment to Company Law</p> <p>Company Law Review Group could provide advice concerning the relevant statutory or regulatory requirements.</p>	<p>Department of Enterprise, Trade and Employment</p> <p>Detail guidance could be in form of auditing standard</p>	<p>With regard to recommendations 14.1 and 14.2 it is important to achieve a sensible and operable form of compliance. In particular, the emphasis ought to be on the identification for reporting purposes of non-compliance that is both material in nature and serious in form.</p> <p>Proposed offences specified in the Company Law Enforcement Bill 2000, the Criminal Justice (Theft and Fraud) Bill 2000 and to be included in Bill which will give effect to the Review Group on Auditing were noted. Penalties and procedures should be consistent across all three Bills. Given potential "vast range of offences" there is a case for spelling out a limited number of specified serious offences which would give rise to the disclosure obligation. An even more limited number could be specified for small and medium enterprises. It may be useful to ask a small task force to examine possible interaction between the three Bills and possibilities for a targeted approach to reporting requirements in the interest of effective and coherent regulation.</p> <p>In general, the Company Law Review Group considered that company law and taxation law were the appropriate areas and the only areas on which companies should report. Any reporting requirements for financial institutions should be addressed as set out in Chapter 15 of the report of the Review Group on Auditing, which basically establishes a protocol for reporting. Reporting should cover the period of the annual report. The reporting obligation should be at the level of the group of companies rather than on each subsidiary in tandem with audit committee obligations.</p> <p>It might be appropriate to attain the desired ends of Chapter 14 through Turnbull-style guidelines on corporate controls.</p> <p>It is also noted that disclosure to shareholders could be damaging to company profitability and might affect the raising of capital abroad. The issue was raised as to whether reporting to members should be done only if the Director of Corporate Enforcement or other regulator was not notified of non-compliance.</p>

Recommendation	Follow-up/Action	Responsible Department/Bodies	Comments of Company Law Review Group
			It is noted that the Review Group on Auditing did not recommend an exemption from this requirement for small or medium sized companies, or for companies exempt from audit requirements. It is suggested that companies exempt from audits should be exempt from these reporting requirements and indeed that consideration be given to excluding all SMEs from this provision. In the event that SMEs are not excluded consideration should be given to allowing directors in these companies to delegate reporting obligations to a nominated and appropriately qualified individual acting under the supervision of a specified director (Section 203(2) of the 1990 Act may provide something of a precedent).
Recommendation 14.2			
<p>The external auditors should report as to whether, in their opinion, the Directors' report of the company's compliance with its obligations is reasonable.</p> <ul style="list-style-type: none"> In making their report, the auditors should specifically address whether the directors have made appropriate disclosure concerning any circumstances of which the auditors are aware that give reasonable grounds to believe the company has not, or may not have, fulfilled its obligations. Where they consider that any such circumstances have not been so disclosed by the directors, and the directors have not amended their report, the auditors should include relevant information in their report. 	Amendment to Company Law	Department of Enterprise, Trade and Employment	See comments at 14.1 above.
This report should be appended to the annual financial statements.			
Recommendation 14.3			
In situations where the Directors have not issued the report referred to in Recommendation 14.1 within a specified time frame then the external auditors will have a duty to report that failure to the Director of Corporate Enforcement.	Amendment to Company Law	Department of Enterprise, Trade and Employment	Desirable.
Recommendation 14.4			
As part of the continuing professional development programme for their auditing members, each of the recognised accountancy bodies should include refresher courses on auditors' statutory obligations under the Companies Acts (including the additional obligations outlined in Recommendation 14.2 and 14.3) and similar legislation in addition to their duties under the body's code of ethics.	New training modules to be developed and introduced to training programmes of Accountancy Bodies.	Accountancy Bodies	Desirable.