



<u>TECHNICAL CIRCULAR:</u>	4/2023 [TC_4/2023]
To:	ALL MEMBERS OF THE INSTITUTE
From:	Listed Entities and PIE Auditors Committee
Date:	28 June 2023
Subject:	Encouragement of long-term shareholder engagement law of 2021- defining material transactions with related parties and relevant exemptions

Following the release of [Technical Circular 4/2022 Encouragement of long-term shareholder engagement law of 2021- auditor's obligations](#) and [Technical Circular 9/2021 Encouragement of long-term shareholder engagement law](#), the Institute of Certified Public Accountants of Cyprus (ICPAC) wishes with this circular to raise awareness as to what constitutes a 'material transaction' with related parties and provide the list with relevant exemptions pursuant to the [Encouragement of long-term shareholder engagement law of 2021](#) (hereafter the 'Law').

According to Article 14 of the Law, for any material transaction between a company¹ and a related party²:

- the transaction must be publicly announced at the latest in time of completion of the transaction (Article 14(3)).
- a report must be published assessing whether the transaction is fair and reasonable from the company's perspective and for the other shareholders. The report shall be produced by (a) an independent third party; (b) the administrative or supervisory body of the company; or (c) the audit committee or any committee the majority of which is composed of independent directors (Article 14(4a&b)).

¹ Companies are issuers which have their registered office in Cyprus and the shares of which are admitted to trading on a regulated market situated or operating within a Member State.

² "Related Party" has the meaning assigned to such term to the International Accounting Standards that have been adopted in accordance with Regulation (EC) no. 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards. The International Accounting Standard (IAS) concerning related party disclosures is IAS 24 (IAS24 *Related Party Disclosures*).

- the transaction with related parties is approved by the general meeting or by the administrative or supervisory body of the company (Article 14(5a)). Shareholders have the right in the general meeting to vote on material transactions with related parties which have been approved by the administrative or supervisory body of the company (Article 14(5b)).
- if the related party transaction involves a director or shareholder, that director or shareholder is excluded from the approval process or from voting (Article 14(5c)).

The Cyprus Securities and Exchange Commission (the ‘Commission’) published, on March 17, 2023 in the Official Gazette of the Republic, the “[Directive OD 111-01 for the determination of material transactions with related parties of 2023](#)” (the ‘Directive’), pursuant to the requirement in Article 14 (2) to issue such directive.

The Directive has entered into force since its publication therefore it is expected that as of that date companies will need to follow the requirements of Article 14.

The Directive defines the quantitative ratios³ for determining:

- a) the companies' material transactions with related parties that are required to be publicly announced (transaction which equals or is larger than 1% of total assets⁴, or 2,5% of turnover⁵ with a minimum reference amount of 35.000 EUR);
- b) the companies' material transactions with related parties that must be approved by the general meeting (transaction which equals or is larger than 1% of total assets⁶ or 2,5% of turnover⁷ with a minimum reference amount of 70.000 EUR).

Exemptions

It is noted that subsections (3), (4) and (5) of Article 14 do not apply to transactions entered in the ordinary course of business and concluded on normal market terms and for such transactions, the management or supervisory body of the company establishes an internal procedure for the periodic evaluation of compliance with the said conditions and the related parties do not participate in this evaluation.

According to Article 14 (7), the following transactions are also exempted from the provisions of subsections (3), (4) and (5):

- (a) transactions between the company and its subsidiaries, provided that they are wholly owned or that no other related party of the company has an interest in the subsidiary including minority shareholders;

³ In case a company prepares consolidated financial statements, the quantitative ratios, are calculated in accordance with its consolidated financial statements.

⁴ According to the last published interim or annual financial statements.

⁵ According to the last published annual financial statements.

⁶ According to the last published interim or annual financial statements.

⁷ According to the last published annual financial statements.

- (b) transactions relating to directors' remuneration or certain elements of directors' remuneration which have been either paid or are due in accordance with the provisions of Article 12 of the Law;
- (c) transactions offered to all shareholders under the same conditions, as long as the equal treatment of all shareholders and the protection of the company's interests are ensured.