

# Welcome Development in Irish Companies Act for Aircraft Leasing

Under the Companies Act 2014 (the 2014 Act), Irish private limited companies may be incorporated as either a company limited by shares (CLS) or a designated activity company (DAC). The **Companies (Accounting) Act 2017** (the **Accounting Act**) which came into force on 2 June 2017 included welcome amendments to the 2014 Act which impact the aircraft leasing community and the use of Designated Activity Companies for aircraft finance and leasing transactions. Prior to the Accounting Act, a company entering into the business of finance leasing needed to be a DAC entity rather than a CLS.

As a result of the prohibition in the 2014 Act on a CLS/LTD company type carrying on the activity of a credit institution or an insurance undertaking, a large number of CLS/LTD companies converted to designated activity companies, or DACs, which are not subject to this prohibition. Some of these conversions were driven by the fact that the definition of “credit institution” in the 2014 Act was ambiguous, and open to differing interpretations, including a view that the activity of a “credit institution” could include certain group treasury functions, as well as other forms of activity such as finance leasing which were previously never regarded as falling within the generally accepted meaning of a “credit institution”.

The definition has now been amended, and helpfully clarifies that the activity of a credit institution must include the carrying on of the business of granting of credit for its own account and accepting deposits or other repayable funds from the public, thereby removing a major concern caused by the ambiguities in the original definition.

The amendments to the definition of ‘credit institution’ effected by the Accounting Act now removes the need for companies undertaking finance leasing or other financing activities to be a DAC as long as they are not accepting deposits from the public.

## Summary overview of DAC and CLS

### In common:

- Both can have one shareholder
- Private limited liability company
- Separate legal entity, subject to suit in its own name
- Can dispense with holding of a physical AGM

### Key differences:

	CLS	DAC
<b>Name</b>	Ends in ‘Limited’ or ‘Ltd’	Ends in ‘DAC’ or ‘Designated Activity Company’
<b>Directors</b>	One (but in practice is likely to have at least two)	Two
<b>Company Secretary</b>	Must have a Company Secretary which cannot be a Director	Must have a Company Secretary which can be a Director
<b>Objects Clause</b>	None – unlimited corporate capacity	Objects Clause required
<b>Authorised Share Capital</b>	Not required	Required

## KEY CONTACTS



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