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SCHEDULES

SCHEDULE 11

Section 30(5).

RECOGNITION OF SUPERVISORY BODY

PART I

GRANT AND REVOCATION OF RECOGNITION

Application for recognition of supervisory body

- 1 (1) A supervisory body may apply to the Secretary of State for an order declaring it to be a recognised supervisory body for the purposes of this Part of this Act.
- (2) Any such application—
 - (a) shall be made in such manner as the Secretary of State may direct, and
 - (b) shall be accompanied by such information as the Secretary of State may reasonably require for the purpose of determining the application.
- (3) At any time after receiving an application and before determining it the Secretary of State may require the applicant to furnish additional information.
- (4) The directions and requirements given or imposed under sub-paragraphs (2) and (3) may differ as between different applications.
- (5) Any information to be furnished to the Secretary of State under this paragraph shall, if he so requires, be in such form or verified in such manner as he may specify.
- (6) Every application shall be accompanied by a copy of the applicant's rules and of any guidance issued by the applicant which is intended to have continuing effect and is issued in writing or other legible form.

Grant and refusal of recognition

- 2 (1) The Secretary of State may, on an application duly made in accordance with paragraph 1 and after being furnished with all such information as he may require under that paragraph, make or refuse to make an order (a "recognition order") declaring the applicant to be a recognised supervisory body for the purposes of this Part of this Act.
- (2) The Secretary of State shall not make a recognition order unless it appears to him, from the information furnished by the body and having regard to any other information in his possession, that the requirements of Part II of this Schedule are satisfied as respects that body.

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- (3) The Secretary of State may refuse to make a recognition order in respect of a body if he considers that its recognition is unnecessary having regard to the existence of one or more other bodies which maintain and enforce rules as to the appointment and conduct of company auditors and which have been or are likely to be recognised.
- (4) Where the Secretary of State refuses an application for a recognition order he shall give the applicant a written notice to that effect specifying which requirements in the opinion of the Secretary of State are not satisfied or stating that the application is refused on the ground mentioned in sub-paragraph (3).
- (5) A recognition order shall state the date on which it takes effect.

Revocation of Recognition

- 3 (1) A recognition order may be revoked by a further order made by the Secretary of State if at any time it appears to him—
 - (a) that any requirement of Part II of this Schedule is not satisfied in the case of the body to which the recognition order relates (“the recognised body”),
 - (b) that the recognised body has failed to comply with any obligation to which it is subject by virtue of this Part of this Act, or
 - (c) that the continued recognition of the body is undesirable having regard to the existence of one or more other bodies which have been or are to be recognised.
- (2) An order revoking a recognition order shall state the date on which it takes effect and that date shall not be earlier than three months after the day on which the revocation order is made.
- (3) Before revoking a recognition order the Secretary of State shall give written notice of his intention to do so to the recognised body, take such steps as he considers reasonably practicable for bringing the notice to the attention of members of the body and publish it in such manner as he thinks appropriate for bringing it to the attention of any other persons who are in his opinion likely to be affected.
- (4) A notice under sub-paragraph (3) shall state the reasons for which the Secretary of State proposes to act and give particulars of the rights conferred by sub-paragraph (5).
- (5) A body on which a notice is served under sub-paragraph (3), any member of the body and any other person who appears to the Secretary of State to be affected may within three months after the date of service or publication, or within such longer time as the Secretary of State may allow, make written representations to the Secretary of State and, if desired, oral representations to a person appointed for that purpose by the Secretary of State; and the Secretary of State shall have regard to any representations made in accordance with this sub-paragraph in determining whether to revoke the recognition order.
- (6) If in any case the Secretary of State considers it essential to do so in the public interest he may revoke a recognition order without regard to the restriction imposed by sub-paragraph (2) and notwithstanding that no notice has been given or published under sub-paragraph (3) or that the time for making representations in pursuance of such a notice has not expired.

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- (7) An order revoking a recognition order may contain such transitional provisions as the Secretary of State thinks necessary or expedient.
- (8) A recognition order may be revoked at the request or with the consent of the recognised body and any such revocation shall not be subject to the restrictions imposed by sub-paragraphs (1) and (2) or the requirements of sub-paragraphs (3) to (5).
- (9) On making an order revoking a recognition order the Secretary of State shall give the body written notice of the making of the order, take such steps as he considers reasonably practicable for bringing the making of the order to the attention of members of the body and publish a notice of the making of the order in such manner as he thinks appropriate for bringing it to the attention of any other persons who are in his opinion likely to be affected.

PART II

REQUIREMENTS FOR RECOGNITION

Modifications etc. (not altering text)

- C1** Sch. 11 Pt. II amended (1.10.1991) by S.I. 1991/824, **regs. 1(2)(a)**, 11(6); S.I. 1991/1996, **art. 2(1)(a)**
C2 Sch. 11 Pt. II excluded (1.10.1991) by S.I. 1991/824, **regs. 1(2)(a)**, 11(4); S.I. 1991/1996, **art. 2(1)(a)**
Sch. 11 Pt. II excluded (9.2.2005) by The European Communities (Recognition of Professional Qualifications) (First General System) Regulations 2005 (S.I. 2005/18), **reg. 11(4)** (with reg. 3)

Holding of appropriate qualification

- 4 (1) The body must have rules to the effect that a person is not eligible for appointment as a company auditor unless—
 - (a) in the case of an individual, he holds an appropriate qualification;
 - (b) in the case of a firm—
 - (i) the individuals responsible for company audit work on behalf of the firm hold an appropriate qualification, and
 - (ii) the firm is controlled by qualified persons (see paragraph 5 below).
 - (2) This does not prevent the body from imposing more stringent requirements.
 - (3) A firm which has ceased to comply with the conditions mentioned in sub-paragraph (1)(b) may be permitted to remain eligible for appointment as a company auditor for a period of not more than three months.
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- 5 (1) The following provisions explain what is meant in paragraph 4(1)(b)(ii) by a firm being “controlled by qualified persons”.
 - (2) For this purpose references to a person being qualified are, in relation to an individual, to his holding an appropriate qualification, and in relation to a firm, to its being eligible for appointment as a company auditor.

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- (3) A firm shall be treated as controlled by qualified persons if, and only if—
- (a) a majority of the members of the firm are qualified persons, and
 - (b) where the firm’s affairs are managed by a board of directors, committee or other management body, a majority of the members of that body are qualified persons or, if the body consists of two persons only, at least one of them is a qualified person.
- (4) A majority of the members of a firm means—
- (a) where under the firm’s constitution matters are decided upon by the exercise of voting rights, members holding a majority of the rights to vote on all, or substantially all, matters;
 - (b) in any other case, members having such rights under the constitution of the firm as enable them to direct its overall policy or alter its constitution.
- (5) A majority of the members of the management body of a firm means—
- (a) where matters are decided at meetings of the management body by the exercise of voting rights, members holding a majority of the rights to vote on all, or substantially all, matters at such meetings;
 - (b) in any other case, members having such rights under the constitution of the firm as enable them to direct its overall policy or alter its constitution.
- (6) The provisions of paragraphs 5 to 11 of Schedule 10A to the Companies Act 1985 (rights to be taken into account and attribution of rights) apply for the purposes of this paragraph.

Auditors to be fit and proper persons

- 6 (1) The body must have adequate rules and practices designed to ensure that the persons eligible under its rules for appointment as a company auditor are fit and proper persons to be so appointed.
- (2) The matters which the body may take into account for this purpose in relation to a person must include—
- (a) any matter relating to any person who is or will be employed by or associated with him for the purposes of or in connection with company audit work; and
 - (b) in the case of a body corporate, any matter relating to any director or controller of the body, to any other body corporate in the same group or to any director or controller of any such other body; and
 - (c) in the case of a partnership, any matter relating to any of the partners, any director or controller of any of the partners, any body corporate in the same group as any of the partners and any director or controller of any such other body.
- (3) In sub-paragraph (2)(b) and (c) “controller”, in relation to a body corporate, means a person who either alone or with any associate or associates is entitled to exercise or control the exercise of 15 per cent. or more of the rights to vote on all, or substantially all, matters at general meetings of the body or another body corporate of which it is a subsidiary.

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Professional integrity and independence

- 7 (1) The body must have adequate rules and practices designed to ensure—
- (a) that company audit work is conducted properly and with integrity, and
 - (b) that persons are not appointed company auditor in circumstances in which they have any interest likely to conflict with the proper conduct of the audit.
- (2) The body must also have adequate rules and practices designed to ensure that no firm is eligible under its rules for appointment as a company auditor unless the firm has arrangements to prevent—
- (a) individuals who do not hold an appropriate qualification, and
 - (b) persons who are not members of the firm,
- from being able to exert any influence over the way in which an audit is conducted in circumstances in which that influence would be likely to affect the independence or integrity of the audit.

Technical standards

- 8 The body must have rules and practices as to the technical standards to be applied in company audit work and as to the manner in which those standards are to be applied in practice.

Procedures for maintaining competence

- 9 The body must have rules and practices designed to ensure that persons eligible under its rules for appointment as a company auditor continue to maintain an appropriate level of competence in the conduct of company audits.

Monitoring and enforcement

- 10 (1) The body must have adequate arrangements and resources for the effective monitoring and enforcement of compliance with its rules.
- (2) The arrangements for monitoring may make provision for that function to be performed on behalf of the body (and without affecting its responsibility) by any other body or person who is able and willing to perform it.

VALID FROM 06/04/2005

Independent monitoring of audits of listed and other major companies

- 10A (1) The body must—
- (a) participate in arrangements within paragraph 19(1), and

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- (b) have rules designed to ensure that members of the body who perform any company audit functions in respect of major audits take such steps as may be reasonably required of them to enable their performance of any such functions to be monitored by means of inspections carried out under the arrangements.
- (2) Any monitoring of such persons under the arrangements is to be regarded (so far as their performance of company audit functions in respect of major audits is concerned) as monitoring of compliance with the body's rules for the purposes of paragraph 10(1).
- (3) In this paragraph "company audit function" and "major audit" have the same meaning as in paragraph 19.

Membership, eligibility and discipline

- 11 The rules and practices of the body relating to—
- (a) the admission and expulsion of members,
 - (b) the grant and withdrawal of eligibility for appointment as a company auditor, and
 - (c) the discipline it exercises over its members,
- must be fair and reasonable and include adequate provision for appeals.

Investigation of complaints

- 12 (1) The body must have effective arrangements for the investigation of complaints—
- (a) against persons who are eligible under its rules to be appointed company auditor, or
 - (b) against the body in respect of matters arising out of its functions as a supervisory body.
- (2) The arrangements may make provision for the whole or part of that function to be performed by and to be the responsibility of a body or person independent of the body itself.

VALID FROM 06/04/2005

Independent investigation for disciplinary purposes of public interest cases

- 12A (1) The body must—
- (a) participate in arrangements within paragraph 20(1), and
 - (b) have rules and practices designed to ensure that, where the designated persons have decided that any particular disciplinary action should be taken against a member of the body following the conclusion of an investigation under such arrangements, that decision is to be treated as if it were a decision made by the body in disciplinary proceedings against the member.

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- (2) In sub-paragraph (1) “the designated persons” means the persons who, under the arrangements, have the function of deciding whether (and, if so, what) disciplinary action should be taken against a member of the body in the light of an investigation carried out under the arrangements.

Meeting of claims arising out of audit work

- 13 (1) The body must have adequate rules or arrangements designed to ensure that persons eligible under its rules for appointment as a company auditor take such steps as may reasonably be expected of them to secure that they are able to meet claims against them arising out of company audit work.
- (2) This may be achieved by professional indemnity insurance or other appropriate arrangements.

Register of auditors and other information to be made available

- 14 The body must have rules requiring persons eligible under its rules for appointment as a company auditor to comply with any obligations imposed on them by regulations under section 35 or 36.

Taking account of costs of compliance

- 15 The body must have satisfactory arrangements for taking account, in framing its rules, of the cost to those to whom the rules would apply of complying with those rules and any other controls to which they are subject.

Promotion and maintenance of standards

- 16 The body must be able and willing to promote and maintain high standards of integrity in the conduct of company audit work and to co-operate, by the sharing of information and otherwise, with the Secretary of State and any other authority, body or person having responsibility in the United Kingdom for the qualification, supervision or regulation of auditors.

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VALID FROM 06/04/2005

PART 3

ARRANGEMENTS IN WHICH SUPERVISORY BODIES ARE REQUIRED TO PARTICIPATE

Arrangements for setting standards relating to professional integrity and independence

- 17 The arrangements referred to in paragraph 7(1A) are appropriate funded arrangements—
- (a) for the determining of standards for the purposes of the rules and practices mentioned in paragraph 7(1), and
 - (b) for ensuring that the determination of those standards is done independently of the body.

Arrangements for setting technical standards

- 18 The arrangements referred to in paragraph 8(2) are appropriate funded arrangements—
- (a) for the determining of standards for the purposes of the rules and practices mentioned in paragraph 8(1), and
 - (b) for ensuring that the determination of those standards is done independently of the body.

Arrangements for independent monitoring of audits of listed and other major companies

- 19 (1) The arrangements referred to in paragraph 10A(1) are appropriate funded arrangements—
- (a) for enabling the performance by members of the body of company audit functions in respect of major audits to be monitored by means of inspections carried out under the arrangements, and
 - (b) for ensuring that the carrying out of such monitoring and inspections is done independently of the body.
- (2) In this paragraph—
- “company audit function” means any function performed as a company auditor;
- “major audit” means an audit conducted in respect of—
- (a) a company any of whose securities have been admitted to the official list (within the meaning of Part 6 of the Financial Services and Markets Act 2000), or
 - (b) any other company in whose financial condition there is a major public interest.

Arrangements for independent investigation for disciplinary purposes of public interest cases

- 20 (1) The arrangements referred to in paragraph 12A(1) are appropriate funded arrangements—

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- (a) for the carrying out of investigations into public interest cases arising in connection with the performance of company audit functions by members of the body,
- (b) for the holding of disciplinary hearings relating to members of the body which appear to be desirable following the conclusion of such investigations,
- (c) for requiring such hearings to be held in public except where the interests of justice otherwise require,
- (d) for the persons before whom such hearings have taken place to decide whether (and, if so, what) disciplinary action should be taken against the members to whom the hearings related, and
- (e) for ensuring that the carrying out of those investigations, the holding of those hearings, and the taking of those decisions are done independently of the body.

(2) In this paragraph—

“company audit function” means any function performed as a company auditor;

“public interest cases” means matters which raise or appear to raise important issues affecting the public interest.

Supplementary: arrangements to operate independently of body

- 21 (1) This paragraph applies for the purposes of—
paragraph 17(b),
paragraph 18(b),
paragraph 19(1)(b), or
paragraph 20(1)(e).
- (2) Arrangements cannot be regarded as appropriate for the purpose of ensuring that the thing or things mentioned in that provision is or are done independently of the body unless they are designed to ensure that the body—
- (a) will have no involvement in the appointment or selection of any of the persons who are to be responsible for doing the thing or things in question, and
 - (b) will not otherwise be involved in the doing of that thing or those things.
- (3) Sub-paragraph (2) imposes a minimum requirement and does not preclude the possibility that additional criteria may need to be satisfied in order for the arrangements to be regarded as appropriate for the purpose in question.

Supplementary: “funded” arrangements etc.

- 22 (1) For the purposes of any of paragraphs 17, 18, 19 and 20, arrangements are “funded” arrangements if, in the event of their providing for the payment of costs of maintaining the arrangements, such costs are to be paid by the body in accordance with the arrangements.
- (2) Arrangements can qualify as arrangements within any of paragraphs 17, 18, 19(1) and 20(1) even though the matters for which they provide are more extensive in any respect than those mentioned in that provision.

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