

EXPLANATORY MEMORANDUM TO THE SUPERVISION OF ACCOUNTS AND REPORTS (PRESCRIBED BODY) ORDER 2005

2005 No. 715

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The order appoints the Financial Reporting Review Panel (“the Panel”) to monitor compliance by certain classes of issuer of listed securities with the accounting requirements of the Listing Rules. The Panel is an operating body of the Financial Reporting Council.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Under sections 74 and 96 of the Financial Services and Markets Act 2004, the Financial Services Authority may make Listing Rules governing the admission of securities to the official list and specifying the requirements on companies and other entities which list securities.

4.2 Section 14 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 gives the Secretary of State for Trade and Industry the power to appoint a body to monitor compliance with the accounting requirements of the Listing Rules.

4.3 The Order appoints the Panel to check that the accounting information contained in the annual and interim reports of the following issuers of listed securities complies with the accounting requirements of the listing rules, and to inform the FSA of any conclusions it reaches:

- United Kingdom bodies corporate (whether incorporated under the Companies Acts or not); and
- Overseas bodies corporate with a primary listing of their equity securities in the United Kingdom.

5. Extent

5.1 This instrument applies to the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister for Industry and the Regions and Deputy Minister for Women & Equality, Jacqui Smith has made the following statement regarding Human Rights:

In my view, the provisions of The Supervision of Accounts and Reports (Prescribed Body) Order 2005 are compatible with the Convention rights.

7. Policy Background

7.1 Following the corporate scandals of Enron and WorldCom in the United States, the Government set up the Co-ordinating Group on Auditing and Accounting Issues (“the CGAA”) to review the adequacy of the UK’s regulatory arrangements. One area the CGAA focused on was the enforcement of accounting standards, on the basis that a financial reporting regime is only credible if those standards are applied in a consistent and rigorous way.

7.2 The CGAA’s concluded that the enforcement regime in respect of the financial information submitted by listed companies under the Listing Rules should build on the work of the Panel but also incorporate a role for the FSA. They recommended that the Panel and the FSA should agree and clarify their respective roles and responsibilities in the enforcement process. The Secretary of State for Trade and Industry accepted the CGAA’s recommendations on 29 January 2003.

7.3 These recommendations were built on by section 14 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 which came into force on 1 January 2005. This section gives the Secretary of State the power to appoint a body to monitor compliance with the accounting requirements of the listing rules.

8. Impact

8.1 A Regulatory Impact Assessment (RIA) has not been prepared for this instrument. The costs and benefits of the policy proposal to extend the Panel’s remit to cover issuers of listed securities was included in the final RIA for the provisions on the strengthening of enforcement of accounting requirements in the Companies (Audit, Investigations and Community Enterprise) Act 2004.

9. Contact

Rob Cottam at the Department of Trade and Industry, tel: 020 7215 0169 or e-mail: Rob.Cottam@dti.gsi.gov.uk can answer any queries regarding the instrument.

Minister for Industry and the Regions and
Deputy Minister for Women and Equality

