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STATUTORY INSTRUMENTS

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**2007 No. 3494**

**COMPANIES  
AUDITORS**

**The Statutory Auditors and Third  
Country Auditors Regulations 2007**

*Made - - - - 17th December 2007*

*Laid before Parliament 17th December 2007*

*Coming into force in accordance with regulation 1(2)  
and (3)*

The Secretary of State is a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to auditors and the audit of accounts.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act and it appears to the Secretary of State that it is expedient for the reference to Directive 2006/43/EC of the European Parliament and of the Council on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC<sup>(3)</sup>, to be construed as a reference to that Directive as amended at any time before 1st January 2009.

In exercise of the powers conferred by section 2(2)(4) of, as read with paragraph 1A of Schedule 2 to, the European Communities Act 1972 and sections 1239, 1241(2)(c), 1246, 1292(1)(a) and (b) and (2) of, and paragraph 8(1)(a) of Schedule 11 to, the Companies Act 2006<sup>(5)</sup>, the Secretary of State makes the following Regulations.

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(1) S.I. 2007/1679.

(2) 1972 c.68.

(3) OJ L 157, 9.6.2006, p. 87. The Directive extends to the European Economic Area by virtue of Decision of the EEA Joint Committee No. 160/2006 of 8 December 2006 amending Annex XXII (Company law) to the EEA Agreement (OJ L 89, 29.3.2007, p. 38).

(4) The enabling powers of section 2(2) were extended by virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c.51). Paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972 provides that the powers conferred by section 2(2) shall not include power to create a new criminal offence punishable on summary conviction with imprisonment for more than three months. In its application to a summary conviction in Scotland paragraph 1(1)(d) of Schedule 2 is modified by section 45(4) of the Criminal Proceedings etc (Reform) (Scotland) Act 2007 (2007 asp 6), so that the reference to three months is read as a reference to twelve months.

(5) 2006 c.46.

## PART 1

### CITATION, COMMENCEMENT AND INTERPRETATION

#### Citation and commencement

1.—(1) These Regulations may be cited as the Statutory Auditors and Third Country Auditors Regulations 2007.

(2) These Regulations, except for the provisions referred to in paragraph (3), come into force on 6th April 2008.

(3) Regulations 32, 33 and 38(2)(b) to (d) come into force on 29th June 2008.

#### Minor definitions

2.—(1) Section 1261 of the Companies Act 2006 (minor definitions) is amended as follows.

(2) At the appropriate places in subsection (1), insert the following definitions—

““the Audit Directive” means Directive [2006/43/EC](#) of the European Parliament and of the Council on statutory audits of annual accounts and consolidated accounts, amending Council Directives [78/660/EEC](#) and [83/349/EEC](#) and repealing Council Directive [84/253/EEC](#), as amended at any time before 1st January 2009;”;

““audit working papers” means any documents which—

(a) are or have been held by a statutory auditor or a third country auditor, and

(b) are related to the conduct of an audit conducted by that auditor;”;

““EEA auditor” means an individual who is approved in accordance with the Audit Directive by an EEA competent authority to carry out audits of annual accounts or consolidated accounts required by Community law;”;

““EEA competent authority” means a competent authority within the meaning of Article 2.10 of the Audit Directive of an EEA State other than the United Kingdom;”;

““third country” means a country or territory that is not an EEA State or part of an EEA State;”;

““third country auditor” means a person, other than a person eligible for appointment as a statutory auditor, who is eligible to conduct audits of the accounts of bodies corporate incorporated or formed under the law of a third country in accordance with the law of that country;”;

““third country competent authority” means a body established in a third country exercising functions related to the regulation or oversight of auditors;”.

(3) After subsection (2) insert—

“(2A) For the purposes of this Part, Gibraltar shall be treated as if it were an EEA State.”.

#### Index of defined expressions

3.—(1) Section 1262 of the Companies Act 2006 (index of defined expressions) is amended as follows.

(2) At the appropriate places, insert the following entries in the Table—

“Audit Directive	section 1261(1)”;
“audit working papers	section 1261(1)”;

“EEA auditor	section 1261(1)”;
“EEA competent authority	section 1261(1)”;
“third country	section 1261(1)”;
“third country competent authority	section 1261(1)”;
“UK-traded non-EEA company	section 1241(2)”.

- (3) In the entry for “third country auditor”—
- (a) in the left-hand column, omit “third country audit and third country audit work”;
  - (b) in the right-hand column, for “section 1241(1)” substitute “section 1261(1)”.

## PART 2

### STATUTORY AUDITORS

#### Supervisory bodies

- 4.—(1) Section 1217 of the Companies Act 2006 (supervisory bodies) is amended as follows.
- (2) In subsection (1) omit the word “either” and the words from “or because” to the end.
- (3) After subsection (1) insert—
- “(1A) The rules referred to in paragraphs 9(3)(b) (confidentiality of information) and 10C(3)(a) and (b) (bar on appointment as director or other officer) of Schedule 10 must also be binding on persons who—
- (a) have sought appointment or acted as a statutory auditor, and
  - (b) have been members of the body at any time after the commencement of this Part.”.

#### Appropriate qualifications

5. In section 1219(1) of the Companies Act 2006 (appropriate qualifications)—
- (a) after paragraph (d) insert “or”;
  - (b) omit paragraph (e);
  - (c) in paragraph (f), for “overseas” substitute “third country”.

#### Approval of third country qualifications

- 6.—(1) Section 1221 of the Companies Act 2006 (approval of overseas qualifications) is amended as follows.
- (2) In subsections (1), (5) and (6) and the section heading, for “overseas” substitute “third country”.
- (3) In subsections (1)(a) and (b), (3)(a), (4) and (7)(a), for “foreign country” substitute “third country”.
- (4) After subsection (1) insert—

“(1A) A declaration under subsection (1)(a) or (b) must be expressed to be subject to the requirement that any person to whom the declaration relates must pass an aptitude test in accordance with subsection (7A), unless an aptitude test is not required (see subsection (7B)).”.

(5) After subsection (7) insert—

“(7A) An aptitude test required for the purposes of subsection (1A)—

- (a) must test the person’s knowledge of subjects—
  - (i) that are covered by a recognised professional qualification,
  - (ii) that are not covered by the professional qualification already held by the person, and
  - (iii) the knowledge of which is essential for the pursuit of the profession of statutory auditor;
- (b) may test the person’s knowledge of rules of professional conduct;
- (c) must not test the person’s knowledge of any other matters.

(7B) No aptitude test is required for the purposes of subsection (1A) if the subjects that are covered by a recognised professional qualification and the knowledge of which is essential for the pursuit of the profession of statutory auditor are covered by the professional qualification already held by the person.”.

(6) Omit subsection (9).

## PART 3

### COMPETENT AUTHORITIES

#### Notification of matters relevant to other EEA States

7.—(1) After section 1223 of the Companies Act 2006(6) (matters to be notified to the Secretary of State) insert—

#### “Notification of matters relevant to other EEA States

**1223A.**—(1) A recognised supervisory body must notify the Secretary of State of—

- (a) any withdrawal of a notifiable person’s eligibility for appointment as a statutory auditor; and
- (b) the reasons for the withdrawal.

(2) A recognised supervisory body must also notify the Secretary of State of any reasonable grounds it has for suspecting that—

- (a) a person has contravened the law of the United Kingdom, or any other EEA State or part of an EEA State, implementing the Audit Directive, and
- (b) the act or omission constituting that contravention took place on the territory of an EEA State other than the United Kingdom.

(3) In this section “notifiable person” means a member of the recognised supervisory body in question—

- (a) who is also an EEA auditor; and

(b) in respect of whom the EEA competent authority is not the recognised supervisory body itself.”.

(2) In section 1223A of the Companies Act 2006, subsection (1) only applies to EEA auditors who have been appointed as statutory auditor for financial years beginning on or after 6<sup>th</sup> April 2008.

### **Restrictions on disclosure**

**8.**—(1) After section 1224 of the Companies Act 2006 (Secretary of State’s power to call for information) insert—

#### **“Restrictions on disclosure**

**1224A.**—(1) This section applies to information (in whatever form)—

- (a) relating to the private affairs of an individual, or
- (b) relating to any particular business,

that is provided to a body to which this section applies in connection with the exercise of its functions under this Part or sections 522 to 524 (notification to appropriate audit authority of resignation or removal of auditor).

(2) This section applies to—

- (a) a recognised supervisory body,
- (b) a recognised qualifying body,
- (c) a body performing functions for the purposes of arrangements within paragraph 23(1) (independent monitoring of certain audits) or paragraph 24(1) (independent investigation of public interest cases) of Schedule 10,
- (d) the Independent Supervisor,
- (e) the Secretary of State, and
- (f) a body designated by the Secretary of State under section 1252 (delegation of the Secretary of State’s functions).

(3) No such information may, during the lifetime of the individual or so long as the business continues to be carried on, be disclosed without the consent of that individual or (as the case may be) the person for the time being carrying on that business.

(4) Subsection (3) does not apply to any disclosure of information that—

- (a) is made for the purpose of facilitating the carrying out by the body of any of its functions,
- (b) is made to a person specified in Part 1 of Schedule 11A,
- (c) is of a description specified in Part 2 of that Schedule, or
- (d) is made in accordance with Part 3 of that Schedule.

(5) Subsection (3) does not apply to—

- (a) the disclosure by an EEA competent authority of information disclosed to it by the body in reliance on subsection (4);
- (b) the disclosure of such information by anyone who has obtained it directly or indirectly from an EEA competent authority.

(6) This section does not prohibit the disclosure of information if the information is or has been available to the public from any other source.

(7) Nothing in this section authorises the making of a disclosure in contravention of the Data Protection Act 1998.

**Offence of disclosure in contravention of section 1224A**

**1224B.**—(1) A person who discloses information in contravention of section 1224A (restrictions on disclosure) is guilty of an offence, unless—

- (a) he did not know, and had no reason to suspect, that the information had been provided as mentioned in section 1224A(1), or
- (b) he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

(2) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
- (b) on summary conviction—
  - (i) in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
  - (ii) in England and Wales or Northern Ireland, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum, or to both.”.

(2) After Schedule 11 to the Companies Act 2006 insert the Schedule 11A set out in the Schedule to these Regulations.

(3) Section 1224A of the Companies Act 2006 only applies to information that is provided to a body on or after 6th April 2008.

**Supervision of Auditors General by the Independent Supervisor**

**9.**—(1) Section 1229 of the Companies Act 2006 (supervision of Auditors General by the Independent Supervisor) is amended as follows.

(2) For subsection (2) substitute—

“(2) The Independent Supervisor must discharge that duty by—

- (a) establishing supervision arrangements itself, or
- (b) entering into supervision arrangements with one or more bodies.

(2A) If the Independent Supervisor enters into supervision arrangements with one or more bodies, it must oversee the effective operation of those supervision arrangements.”.

(3) In the opening words of subsection (3)—

- (a) after “are arrangements” insert “established by the Independent Supervisor or”;
- (b) after “in accordance with which” insert “the Independent Supervisor or”;
- (c) omit “one or more of”.

(4) After subsection (3) insert—

“(3A) The requirements of paragraphs 9 to 10A and 12 to 15 of Schedule 10 (requirements for recognition of a supervisory body) apply in relation to supervision arrangements as they apply in relation to the rules, practices and arrangements of supervisory bodies.”.

(5) In subsection (5) after “arrangements that it” insert “establishes or”.

(6) After subsection (5) insert—

“(5A) The Independent Supervisor must, at least once in every calendar year, deliver to the Secretary of State a summary of the results of any inspections conducted for the purposes of subsection (3)(c).”.

### **Duties of Auditors General in relation to supervision arrangements**

**10.**—(1) Section 1230 of the Companies Act 2006 (duties of Auditors General in relation to supervision arrangements) is amended as follows.

(2) For subsection (2) substitute—

“(2) Each Auditor General must—

- (a) if the Independent Supervisor has established supervision arrangements, pay to the Independent Supervisor;
- (b) if the Independent Supervisor has entered into supervision arrangements with a body, pay to that body,

such proportion of the costs incurred by the Independent Supervisor or body for the purposes of the arrangements as the Independent Supervisor may notify to him in writing.”.

(3) In subsection (4) after “the arrangements” insert “established or”.

### **Reports of the Secretary of State**

**11.** After section 1251 of the Companies Act 2006 (fees) insert—

*“Duty of Secretary of State to report on inspections*

#### **Duty of the Secretary of State to report on inspections**

**1251A.** The Secretary of State must, at least once in every calendar year, publish a report containing a summary of the results of inspections that are delivered to him—

- (a) by the Independent Supervisor under section 1229(5A);
- (b) by a recognised supervisory body under paragraph 13(9) of Schedule 10.”.

### **Delegation of Secretary of State’s functions**

**12.** In section 1252(7)(a) of the Companies Act 2006 (consent of Secretary of State for delegation of certain functions), for “overseas” substitute “third country”.

### **Delegation of functions to an existing body**

**13.** In section 1253(5) of the Companies Act 2006 (delegation of functions to an existing body) for “paragraph 21, 22, 23(1) or 24(1) of Schedule 10” substitute “paragraph 21 to 22B, 23(1) or 24(1) of Schedule 10”.

### **Cooperation with foreign competent authorities**

**14.**—(1) After section 1253 of the Companies Act 2006 (delegation of functions to an existing body) insert—

*“Cooperation with foreign competent authorities*

#### **Requests to foreign competent authorities**

**1253A.** The Secretary of State may request from an EEA competent authority or a third country competent authority such assistance, information or investigation as he may reasonably require in connection with the exercise of his functions under this Part.

**Requests from EEA competent authorities**

**1253B.**—(1) The Secretary of State must take all necessary steps to—

- (a) ensure that an investigation is carried out, or
- (b) provide any other assistance or information,

if requested to do so by an EEA competent authority in accordance with Article 36 of the Audit Directive (cooperation between Member State authorities).

(2) Within 28 days following the date on which he receives the request, the Secretary of State must—

- (a) provide the assistance or information required by the EEA competent authority under subsection (1)(b), or
- (b) notify the EEA competent authority which made the request of the reasons why he has not done so.

(3) But the Secretary of State need not take steps to comply with a request under subsection (1) if—

- (a) he considers that complying with the request may prejudice the sovereignty, security or public order of the United Kingdom;
- (b) legal proceedings have been brought in the United Kingdom (whether continuing or not) in relation to the persons and matters to which the request relates; or
- (c) disciplinary action has been taken by a recognised supervisory body in relation to the persons and matters to which the request relates.

**Notification to competent authorities of other EEA States**

**1253C.**—(1) The Secretary of State must notify the relevant EEA competent authority if he receives notice from a recognised supervisory body under section 1223A(1) (notification of withdrawal of eligibility for appointment) of the withdrawal of a person's eligibility for appointment as a statutory auditor.

(2) In subsection (1) “the relevant EEA competent authority” means the EEA competent authority which has approved the person concerned in accordance with the Audit Directive to carry out audits of annual accounts or consolidated accounts required by Community law.

(3) The notification under subsection (1) must include the name of the person concerned and the reasons for the withdrawal of his eligibility for appointment as statutory auditor.

(4) The Secretary of State must notify the relevant EEA competent authority if he has reasonable grounds for suspecting that—

- (a) a person has contravened the law of the United Kingdom, or any other EEA State or part of an EEA State, implementing the Audit Directive, and
- (b) the act or omission constituting that contravention took place on the territory of an EEA State other than the United Kingdom.,

(5) In subsection (4) “the relevant EEA competent authority” means the EEA competent authority for the EEA State in which the suspected contravention took place.

(6) The notification under subsection (4) must include the name of the person concerned and the grounds for the Secretary of State's suspicion.”.

(2) Section 1253B of the Companies Act 2006 (requests from EEA competent authorities) applies only to investigations, assistance or information relating to auditors appointed for financial years beginning on or after 6th April 2008.



## **Transfer of papers to third countries**

15.—(1) After section 1253C of the Companies Act 2006(7) (inserted by regulation 14 above), insert—

### *“Transfer of papers to third countries*

#### **Restriction on transfer of audit working papers to third countries**

**1253D.** Audit working papers must not be transferred to a third country competent authority by any person other than a statutory auditor acting in accordance with rules imposed under paragraph 16A of Schedule 10 (transfer of papers to third countries).

#### **Working arrangements for transfer of papers**

**1253E.**—(1) The Secretary of State may enter into arrangements with a third country competent authority relating to the transfer of audit working papers—

- (a) from the third country competent authority or third country auditors regulated by that authority to the Secretary of State; and
- (b) from statutory auditors to the third country competent authority.

(2) The arrangements must provide that—

- (a) the Secretary of State has the rights and duties referred to in subsections (3) to (5) in relation to papers he requests from the third country competent authority or third country auditors, and
- (b) the third country competent authority has comparable rights and duties in relation to papers it requests from statutory auditors.

(3) Any request by the Secretary of State for audit working papers from the third country competent authority or a third country auditor must be accompanied by a statement explaining the reasons for the request.

(4) The Secretary of State may use the audit working papers he receives in response to a request only in connection with—

- (a) quality assurance functions which meet requirements equivalent to those of Article 29 of the Audit Directive (quality assurance),
- (b) investigation or disciplinary functions which meet requirements equivalent to those of Article 30 of the Audit Directive (investigations and penalties), or
- (c) public oversight functions which meet requirements equivalent to those of Article 32 of the Audit Directive (principles of public oversight).

(5) The Secretary of State, a person exercising the functions of the Secretary of State and persons employed in discharging those functions must be subject to obligations of professional secrecy in relation to audit papers supplied to the Secretary of State by a third country competent authority or a third country auditor.

#### **Publication of working arrangements**

**1253F.** If the Secretary of State enters into working arrangements in accordance with section 1253E, he must publish on a website without undue delay—

- (a) the name of the third country competent authority with which he has entered into such arrangements, and
- (b) the country or territory in which it is established.”.

(2) Arrangements under section 1253E of the Companies Act 2006 only apply to working papers for audits conducted by auditors appointed for financial years beginning on or after 6th April 2008.

#### **Directions to comply with international obligations**

**16.**—(1) Section 1254 of the Companies Act 2006 (directions to comply with international obligations) is amended as follows.

- (2) In subsection (1)(a) after “recognised qualifying body,” insert “the Independent Supervisor”.
- (3) In subsection (3) after “given to” insert “the Independent Supervisor or”.

## PART 4

### RECOGNISED SUPERVISORY BODIES

#### **EEA auditors**

**17.**—(1) Paragraph 6 of Schedule 10 to the Companies Act 2006 (holding of appropriate qualification) is amended as follows.

- (2) In sub-paragraph (1)(a), after “individual” insert “other than an EEA auditor”.
- (3) After sub-paragraph (1)(a), insert—
  - “(aa) in the case of an individual who is an EEA auditor—
    - (i) he holds an appropriate qualification,
    - (ii) he has been authorised on or before 5 April 2008 to practise the profession of company auditor pursuant to the European Communities (Recognition of Professional Qualifications) (First General System) Regulations 2005 ([S.I. 2005/18](#)) and has fulfilled any requirements imposed pursuant to regulation 6 of those Regulations, or
    - (iii) he has passed an aptitude test in accordance with sub-paragraph (2), unless an aptitude test is not required (see sub-paragraph (2A)).”.

- (4) For sub-paragraph (2) substitute—
  - “(2) The aptitude test—
    - (a) must test the person’s knowledge of subjects—
      - (i) that are covered by a recognised professional qualification,
      - (ii) that are not covered by the professional qualification already held by the person, and
      - (iii) the knowledge of which is essential for the pursuit of the profession of statutory auditor;
    - (b) may test the person’s knowledge of rules of professional conduct;
    - (c) must not test the person’s knowledge of any other matters.

(2A) No aptitude test is required if the subjects that are covered by a recognised professional qualification and the knowledge of which is essential for the pursuit of the profession of statutory auditor are covered by the professional qualification already held by the person.”.

### **Meaning of “controlled by qualified persons”**

**18.**—(1) Paragraph 7 of Schedule 10 to the Companies Act 2006 (meaning of “controlled by qualified persons”) is amended as follows.

(2) In sub-paragraph (2), in paragraphs (a)(ii) and (b)(ii), for “a member State”, in each place where it occurs, substitute “an EEA State”.

### **Professional integrity and independence**

**19.**—(1) Paragraph 9 of Schedule 10 to the Companies Act 2006 (professional integrity and independence) is amended as follows.

(2) In sub-paragraph (1)(a), after “integrity” omit “and”.

(3) After sub-paragraph (1)(b) insert—

“(c) persons appointed as statutory auditors take steps to safeguard their independence from any significant threats to it,

(d) persons appointed as statutory auditors record any such threats and the steps taken to safeguard the proper conduct of the audit from them, and

(e) remuneration received or receivable by a statutory auditor in respect of statutory audit work is not—

(i) influenced or determined by the statutory auditor providing other services to the audited person, or

(ii) on a contingent fee basis.”.

(4) For sub-paragraph (3) substitute—

“(3) The body must also have adequate rules and practices designed to ensure that—

(a) no firm is eligible under its rules for appointment as a statutory auditor unless the firm has arrangements to prevent any person from being able to exert any influence over the way in which a statutory audit is conducted in circumstances in which that influence would be likely to affect the independence or integrity of the audit;

(b) any rule of law relating to the confidentiality of information received in the course of statutory audit work by persons appointed as statutory auditors is complied with; and

(c) a person ceasing to hold office as a statutory auditor makes available to his successor in that office all relevant information which he holds in relation to that office.”.

(5) For sub-paragraph (4) substitute—

“(4) The rules referred to in sub-paragraph (3)(b) (confidentiality of information) must apply to persons who are no longer members of the body as they apply to members and any fine imposed in the enforcement of those rules shall be recoverable by the body as a debt due to it from the person obliged to pay it.”.

### **Technical standards for group audits**

**20.**—(1) After paragraph 10 of Schedule 10 to the Companies Act 2006(8) (technical standards) insert—

**“Technical standards for group audits**

**10A.**—(1) The body must have rules and practices as to technical standards ensuring that group auditors—

- (a) review for the purposes of a group audit the audit work conducted by other persons, and
- (b) record that review.

(2) The body must participate in arrangements within paragraph 22, and the rules and practices mentioned in sub-paragraph (1) must include provision requiring compliance with any standards for the time being determined under such arrangements.

(3) The body must also have rules and practices ensuring that group auditors—

- (a) retain copies of any documents necessary for the purposes of the review that they have received from third country auditors who are not covered by working arrangements under section 1253E, or
- (b) agree with those third country auditors proper and unrestricted access to those documents on request.

(4) The body’s rules and practices must ensure that group auditors make those documents available on request to—

- (a) the body;
- (b) any other body with which the body has entered into arrangements for the purposes of paragraph 23 or 24 (independent arrangements for monitoring and investigation);
- (c) the Secretary of State.

(5) The body may provide that the rules and practices referred to in sub-paragraphs (3) and (4) do not apply if, after taking all reasonable steps, a group auditor is unable to obtain the copies of the documents or the access to the documents necessary for the review.

(6) If the body does so provide, its rules and practices must ensure that the group auditor records—

- (a) the steps taken to obtain copies of or access to those documents,
- (b) the reasons why the copies or access could not be obtained, and
- (c) any evidence of those steps or those reasons.

(7) In this paragraph—

“group auditor” means a person appointed as statutory auditor to conduct an audit of group accounts;

“group” has the same meaning as in Part 15 of this Act (see section 474).”.

**Public interest entity reporting and independence requirements**

**21.** After paragraph 10A of Schedule 10 to the Companies Act 2006 (inserted by regulation 20 above) insert—

**“Public interest entity reporting requirements**

**10B.**—(1) The body must have adequate rules and practices designed to ensure that persons appointed as statutory auditors of public interest entities report to the entity’s audit committee (if it has one) at least once in each calendar year at any time during which they hold the office of statutory auditor.

(2) The report must include—

- (a) a statement in writing confirming the person's independence from the public interest entity;
- (b) a description of any services provided by the person to the public interest entity other than in his capacity as statutory auditor;
- (c) a description of any significant threats to the person's independence;
- (d) an explanation of the steps taken by the person to safeguard his independence from those threats;
- (e) a description of any material weaknesses arising from the statutory audit in the public interest entity's internal control in relation to the preparation of accounts; and
- (f) any other significant matters arising from the statutory audit.

(3) The body must participate in arrangements within paragraph 22A (arrangements for setting standards), and the rules and practices mentioned in sub-paragraph (1) must include provision requiring compliance with any standards for the time being determined under such arrangements.

(4) In this paragraph, "audit committee" means a body which performs the functions referred to in Article 41.2 of the Audit Directive or equivalent functions.

#### **Public interest entity independence requirements**

**10C.**—(1) The body must have adequate rules and practices designed to ensure that—

- (a) an individual does not accept an appointment by a public interest entity as statutory auditor if—
  - (i) he has been the statutory auditor of the entity for a continuous period of more than seven years, and
  - (ii) less than two years have passed since he was last the statutory auditor of the entity;
- (b) where a firm has been appointed by a public interest entity as statutory auditor, an individual may not be a key audit partner if—
  - (i) he has been a key audit partner in relation to audits of the entity for a continuous period of more than seven years, and
  - (ii) less than two years have passed since he was last the key audit partner in relation to an audit of the entity.

(2) The body must participate in arrangements within paragraph 22B (arrangements for setting standards), and the rules and practices mentioned in sub-paragraph (1) must include provision requiring compliance with any standards for the time being determined under such arrangements.

(3) The body must also have adequate rules and practices designed to ensure that—

- (a) an individual who has been appointed by a public interest entity as statutory auditor may not be appointed as a director or other officer of the entity during a period of two years commencing on the date on which his appointment as statutory auditor ended;
- (b) a key audit partner of a firm which has been appointed by a public interest entity as statutory auditor may not be appointed as a director or other officer of the entity during a period of two years commencing on the date on which his work as key audit partner ended.

(4) The rules referred to in sub-paragraph (3) must apply to persons who are no longer members of the body as they apply to members and any fine imposed in the enforcement of those rules shall be recoverable by the body as a debt due to it from the person obliged to pay it.

(5) An auditor of a public interest entity is not to be regarded as an officer of the entity for the purposes of sub-paragraph (3)(a) and (b).

(6) For the purposes of this paragraph—

- (a) a “key audit partner” is an individual identified by a firm appointed as statutory auditor as being primarily responsible for the statutory audit; and
- (b) a key audit partner of a firm appointed as statutory auditor of a parent undertaking or a material subsidiary undertaking of a public interest entity is to be treated as if he were a key audit partner of the firm appointed as statutory auditor of the public interest entity.”.

### **Monitoring and enforcement**

**22.**—(1) Paragraph 12 of Schedule 10 to the Companies Act 2006 (monitoring and enforcement) is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) The body must—

- (a) have adequate resources for the effective monitoring and enforcement of compliance with its rules, and
- (b) ensure that those resources may not be influenced improperly by the persons monitored.

(1A) The body must—

- (a) have adequate arrangements for the effective monitoring and enforcement of compliance with its rules, and
- (b) ensure that those arrangements operate independently of the persons monitored.”.

(3) After sub-paragraph (2) insert—

“(3) The arrangements for enforcement must include provision for—

- (a) sanctions which include—
  - (i) the withdrawal of eligibility for appointment as a statutory auditor; and
  - (ii) any other disciplinary measures necessary to ensure the effective enforcement of the body’s rules; and
- (b) the body making available to the public information relating to steps it has taken to ensure the effective enforcement of its rules.”.

### **Monitoring of audits**

**23.** For paragraph 13 of Schedule 10 to the Companies Act 2006(9) (independent monitoring of audits of listed companies and other major bodies) substitute—

#### **“Monitoring of audits**

**13.**—(1) The body must—

- (a) in the case of members of the body who do not perform any statutory audit functions in respect of major audits, have adequate arrangements for enabling the performance by its members of statutory audit functions to be monitored by means of inspections;
  - (b) in the case of members of the body who perform any statutory audit functions in respect of major audits, participate in arrangements within paragraph 23(1); and
  - (c) have rules designed to ensure that members of the body take such steps as may reasonably be required of them to enable their performance of any statutory audit functions to be monitored by means of inspections.
- (2) Any monitoring of members of the body under the arrangements within paragraph 23(1) is to be regarded (so far as their performance of statutory audit functions in respect of major audits is concerned) as monitoring of compliance with the body's rules for the purposes of paragraph 12(1) and (1A).
- (3) The arrangements referred to in sub-paragraph (1)(a) must include an inspection which is conducted in relation to each person eligible for appointment as a statutory auditor at least once every six years.
- (4) The inspection must be conducted by persons who—
- (a) have an appropriate professional education;
  - (b) have experience of—
    - (i) statutory audit work, or
    - (ii) equivalent work on the audit of accounts under the law of an EEA State, or part of an EEA State, other than the United Kingdom;
  - (c) have received adequate training in the conduct of inspections;
  - (d) do not have any interests likely to conflict with the proper conduct of the inspection.
- (5) The inspection must review one or more statutory audits in which the person to whom the inspection relates has participated.
- (6) The inspection must include an assessment of—
- (a) the person's compliance with the body's rules established for the purposes of paragraphs 9 (professional integrity and independence), 10 (technical standards), 10A (technical standards for group audits) and 10C (public interest entity independence requirements);
  - (b) the resources allocated by the person to statutory audit work;
  - (c) in the case of an inspection in relation to a firm, its internal quality control system;
  - (d) the remuneration received by the person in respect of statutory audit work.
- (7) An inspection conducted in relation to a firm may be treated as an inspection of all individuals responsible for statutory audit work on behalf of that firm, if the firm has a common quality assurance policy with which each such individual is required to comply.
- (8) The main conclusions of the inspection must be recorded in a report which is made available to—
- (a) the person to whom the inspection relates, and
  - (b) the body.
- (9) The body must, at least once in every calendar year, deliver to the Secretary of State a summary of the results of inspections conducted under this paragraph.
- (10) In this paragraph—

“major audit” means a statutory audit conducted in respect of—

- (a) a public interest entity, or
- (b) any other person in whose financial condition there is a major public interest;

“statutory audit function” means any function performed as a statutory auditor.”.

### **Transfer of papers to third countries**

**24.** After paragraph 16 of Schedule 10 to the Companies Act 2006 (independent investigation for disciplinary purposes of public interest cases) insert—

#### **“Transfer of papers to third countries**

**16A.**—(1) The body must have adequate rules and practices designed to ensure that persons eligible under its rules for appointment as a statutory auditor deliver audit working papers to a third country competent authority only if—

- (a) the authority has entered into arrangements with the Secretary of State in accordance with section 1253E (working arrangements); and
- (b) the following four conditions are met.

(2) The first condition is that the competent authority has requested the audit working papers for the purposes of an investigation.

(3) The second condition is that the competent authority has given to the Secretary of State notice of its request.

(4) The third condition is that the papers relate to the audit of a body which—

- (a) has issued securities in the country or territory in which the competent authority is established, or
- (b) forms part of a group issuing statutory consolidated accounts in that country or territory.

(5) The fourth condition is that no legal proceedings have been brought (whether continuing or not) in relation to the auditor or audit to which the working papers relate.

(6) The body must also have adequate rules and practices designed to ensure that a person eligible under its rules for appointment as a statutory auditor may refuse to deliver audit working papers to a third country competent authority if the Secretary of State certifies that the delivery of the papers would adversely affect the sovereignty, security or public order of the United Kingdom.”.

### **Interpretation**

**25.** After paragraph 20 of Schedule 10 to the Companies Act 2006 (promotion and maintenance of standards), insert—

#### **“Interpretation**

**20A.** In this Part of this Schedule—

“public interest entity” means an issuer—

- (a) whose transferable securities are admitted to trading on a regulated market; and
- (b) the audit of which is a statutory audit (see section 1210(1));

“issuer” and “regulated market” have the same meaning as in Part 6 of the Financial Services and Markets Act 2000 (see sections 102A to 103); and



“transferable securities” means anything which is a transferable security for the purposes of Directive [2004/39/EC](#) of the European Parliament and of the Council on markets in financial instruments.”.

#### **Arrangements for setting technical standards**

**26.**—(1) Paragraph 22 of Schedule 10 to the Companies Act 2006 (arrangements for setting technical standards) is amended as follows.

(2) For “paragraph 10(2)” substitute “paragraphs 10(2) and 10A(2)”.

(3) In paragraph (a) for “paragraph 10(1)” substitute “paragraphs 10(1) and 10A(1) respectively”.

#### **Arrangements for setting standards relating to public interest entity reporting and independence requirements**

**27.** After paragraph 22 of Schedule 10 to the Companies Act 2006 (arrangements for setting technical standards), insert—

##### **“Arrangements for setting standards relating to public interest entity reporting requirements**

**22A.** The arrangements referred to in paragraph 10B(3) are appropriate arrangements—

- (a) for the determining of standards for the purposes of the rules and practices mentioned in paragraph 10B(1), and
- (b) for ensuring that the determination of those standards is done independently of the body.

##### **Arrangements for setting standards relating to public interest entity independence requirements**

**22B.** The arrangements referred to in paragraph 10C(2) are appropriate arrangements—

- (a) for the determining of standards for the purposes of the rules and practices mentioned in paragraph 10C(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 companies and other major bodies**

**28.**—(1) Paragraph 23 of Schedule 10 to the Companies Act 2006 (arrangements for independent monitoring of audits of listed companies and other major bodies) is amended as follows.

(2) In sub-paragraph (1) for “paragraph 13(1)” substitute “paragraph 13(1)(b)”.

(3) After sub-paragraph (1) insert—

“(1A) Subject to sub-paragraph (1C), the arrangements referred to in sub-paragraph (1) must include provision for an inspection conducted in relation to each person eligible for appointment as a statutory auditor at least once every three years.

(1B) Sub-paragraphs (4) to (9) of paragraph 13 apply in relation to inspections under sub-paragraph (1A) as they apply in relation to inspections under that paragraph.

(1C) The arrangements referred to in sub-paragraph (1) may provide that the body performing the inspections may decide that all or part of the inspection referred to in sub-

paragraph (1A) is not required in the case of a member of a supervisory body who performs statutory audit functions in respect of ten or fewer major audits per year.

(1D) If—

- (a) the arrangements make the provision referred to in sub-paragraph (1C), and
- (b) the body performing the inspections decides that all of an inspection is not required in relation to a member,

the supervisory body must ensure that the arrangements referred to in paragraph 13(1)(a) apply in relation to that member, subject to the modification specified in sub-paragraph (1F).

(1E) If—

- (a) the arrangements make the provision referred to in sub-paragraph (1C), and
- (b) the body performing the inspections decides that part of an inspection is not required in relation to a member,

the supervisory body must ensure that the arrangements referred to in paragraph 13(1)(a) apply in relation to that part of the inspection of that member, subject to the modification specified in sub-paragraph (1F).

(1F) For the purposes of sub-paragraphs (1D) and (1E), paragraph 13(3) applies with the substitution of “three years” for “six years”.

## PART 5

### REGISTRATION OF THIRD COUNTRY AUDITORS

#### Interpretation

**29.** In this Part of these Regulations “the designated body” means the body known as the Professional Oversight Board established under the articles of association of The Financial Reporting Council Limited<sup>(10)</sup>.

#### The register of auditors

**30.**—(1) Section 1239 of the Companies Act 2006 (register of auditors) is amended as follows.

- (2) At the end of subsection (2)(d) omit “and”.
- (3) In subsection (2)(e) omit the words “or a third country auditor”.
- (4) After subsection (2)(e) insert—

“and

- (f) in the case of a third country auditor which is a firm, the name and address of each person who is—
  - (i) an owner or shareholder of the firm, or
  - (ii) a member of the firm’s administrative or management body.”

- (5) In subsection (7) omit the words “in accordance with subsections (2)(e) and (3)”.

#### Meaning of “registered third country auditor” and “UK-traded non-EEA company”

**31.**—(1) Section 1241 of the Companies Act 2006 (meaning of “third country auditor” etc) is amended as follows.

<sup>(10)</sup> Registered number 02486368.

(2) For the heading, substitute “Meaning of “registered third country auditor” and “UK-traded non-EEA company””.

(3) In subsection (1) omit the definition of “third country auditor”.

(4) In subsection (2)—

(a) for the opening words substitute “In this Part “UK-traded non-EEA company” means a body corporate—”;

(b) in paragraph (a), for “a country or territory which is not a member State or part of a member State” substitute “a third country”.

#### **Duties of registered third country auditors**

**32.**—(1) Section 1242 of the Companies Act 2006 (duties of registered third country auditors) is amended as follows.

(2) In subsection (1)—

(a) after “third country auditor” insert “who audits the accounts of a UK-traded non-EEA company”;

(b) in paragraph (a), omit “of traded non-Community companies”.

(3) In subsection (2)(a), for “third country audits” substitute “audits of accounts of UK-traded non-EEA companies”.

#### **Arrangements for registered third country auditors: consequential amendments**

**33.**—(1) Schedule 12 to the Companies Act 2006 (arrangements in which registered third country auditors are required to participate) is amended as follows.

(2) In the italic cross-heading above paragraph 1, for “traded non-Community companies” substitute “UK-traded non-EEA companies”.

(3) In paragraph 1—

(a) in sub-paragraph (1)(a) for “third country audit functions” substitute “functions related to the audit of UK-traded non-EEA companies”;

(b) omit sub-paragraph (2).

(4) In paragraph 2—

(a) in sub-paragraph (1)(a) for “third country audit functions” substitute “functions related to the audit of UK-traded non-EEA companies”;

(b) in sub-paragraph (2), omit the definition of “third country audit function”.

#### **Register of third country auditors**

**34.**—(1) The designated body must keep the register of third country auditors (see section 1239 of the Companies Act 2006).

(2) The register must contain the following information in relation to each third country auditor who is an individual—

(a) his name and address;

(b) his registered number;

(c) an indication that he is a third country auditor;

(d) if he is responsible for audit work on behalf of a third country auditor which is a firm, the firm’s name, address, registered number and, if it has a website, its address;

- (e) in the case of a third country auditor who has registered with an EEA competent authority—
    - (i) the name and address of that authority, and
    - (ii) the registration number which that authority has allocated to it;
  - (f) the name and address of any body which has authorised the third country auditor to conduct audits in accordance with the law of a third country; and
  - (g) if he has entered into arrangements with a body for the purposes of section 1242(1) of the Companies Act 2006 (duties of registered third country auditors), the name and address of that body.
- (3) The register must contain the following information in relation to each third country auditor which is a firm—
- (a) its name and address;
  - (b) the address of each of its offices in which it carries out third country audit work;
  - (c) its registered number;
  - (d) an indication that it is a third country auditor;
  - (e) its contact information and, if it has a website, its address;
  - (f) its legal form;
  - (g) the name and address of each person who is—
    - (i) an owner or shareholder of the firm, or
    - (ii) a member of the firm’s administrative or management body;
  - (h) the name, address and registered number of each individual who performs third country audits on behalf of the firm;
  - (i) in the case of a third country auditor which is a member of a network—
    - (i) a list of the names and addresses of the other members of that network, or
    - (ii) an indication of where that information is available to the public;
  - (j) in the case of a third country auditor which has registered with an EEA competent authority—
    - (i) the name and address of that authority, and
    - (ii) the registration number which that authority has allocated to it;
  - (k) the name and address of any body which has authorised the third country auditor to conduct audits in accordance with the law of a third country; and
  - (l) if it has entered into arrangements with a body for the purposes of section 1242(1) of the Companies Act 2006 (duties of registered third country auditors), the name and address of that body.
- (4) The register of third country auditors must be kept in electronic form.
- (5) The information on the register must be kept available for inspection by any person by electronic means, unless it is excluded in accordance with paragraph (6).
- (6) Information on the register relating to an individual may be excluded from being made available for inspection if making the information so available would create or be likely to create a serious risk that the individual, or any other person, would be subject to violence or intimidation.
- (7) In this regulation “network” means an association of persons cooperating in audit work by way of—
- (a) profit sharing,

- (b) cost sharing,
  - (c) common ownership, control or management,
  - (d) common quality control policies and procedures,
  - (e) common business strategy, or
  - (f) use of a common brand name.
- (8) For the purposes of this regulation—
- (a) a network is not a firm, and
  - (b) an association of individuals which is a firm is not a network.

### **Application for registration of third country auditor**

**35.**—(1) A third country auditor may apply to the designated body for registration in accordance with this regulation.

- (2) An application for registration must be in writing.
- (3) An application for registration of a third country auditor must include—
- (a) the information required for his entry in the register (see regulation 34), other than
    - (i) his registered number, and
    - (ii) the name and address of any body with which he has entered into arrangements for the purposes of section 1242(1) of the Companies Act 2006 (duties of registered third country auditors);
  - (b) the statement required by regulation 36 (application statement); and
  - (c) evidence demonstrating that the matters included in the statement required by regulation 36 (application statement) are correct.
- (4) For the purposes of paragraph (3)(c) a statement by the third country competent authority which oversees or regulates the third country auditor to the effect that the third country auditor is a fit and proper person to conduct audits in that third country may be treated as evidence demonstrating that the statement required by regulation 36(c) is correct.
- (5) An application for registration must—
- (a) in the case of a third country auditor who is an individual, be signed by the third country auditor;
  - (b) in the case of a third country auditor which is a firm, be signed by a person authorised by the firm to sign on its behalf.
- (6) An application may be delivered to the designated body by electronic means, if the designated body so agrees.

### **Application statement**

**36.**—(1) A third country auditor must make a statement for the purposes of his application under regulation 33 (application for registration of third country auditor) to the effect that—

- (a) in the case of a third country auditor who is an individual, he holds a qualification which meets requirements equivalent to those which apply to an appropriate qualification for the purposes of section 1219 of the Companies Act 2006;
- (b) in the case of a third country auditor which is a firm—
  - (i) a majority of the members of the firm's administrative or management body hold qualifications which meet requirements equivalent to those which apply to an appropriate qualification for the purposes of that section, and

- (ii) each individual who conducts audits of UK-traded non-EEA companies (within the meaning of Part 42 of the Companies Act 2006) on behalf of that firm holds a qualification which meets requirements equivalent to those which apply to an appropriate qualification for the purposes of that section;
- (c) he is a fit and proper person to conduct audits of UK-traded non-EEA companies;
- (d) he conducts such audits in accordance with standards equivalent to those required by Articles 22, 24 and 25 of the Audit Directive (independence, objectivity and audit fees);
- (e) he conducts such audits in accordance with standards equivalent to those determined under arrangements within paragraph 22 of Schedule 10 to the Companies Act 2006 (independent determination of technical standards); and
- (f) he publishes on a website an annual transparency report equivalent to that required for auditors of public interest entities by Article 40 of the Audit Directive (transparency report).

#### **Acceptance and refusal of application for registration**

**37.**—(1) The designated body may register a third country auditor if he has made an application in accordance with regulation 35 (application for registration of third country auditor).

(2) The designated body may not register a third country auditor if it considers that the statement required by regulation 36 (application statement) made by him is not correct.

(3) If the designated body refuses to register a third country auditor, it must give him written notice to that effect stating the reason for the refusal.

#### **Allocation of registered number**

**38.** The designated body must allocate a number to each third country auditor which it registers, which shall be known as the third country auditor's registered number.

#### **Duty to provide updated information**

**39.**—(1) A registered third country auditor must take all reasonable steps to notify the designated body without undue delay of—

- (a) the name and address of any body he has entered into arrangements with for the purposes of section 1242(1) of the Companies Act 2006 (arrangements for monitoring of audits of UK-traded non-EEA companies);
- (b) any information or event which may lead the designated body to consider that the statement required by regulation 36 (application statement) made by the third country auditor is not correct;
- (c) any information necessary to ensure that the information in the register relating to him is correct.

#### **Removal of third country auditor from the register**

**40.**—(1) If the designated body considers that the statement required by regulation 36 (application statement) made by the third country auditor is no longer correct, it must—

- (a) notify the third country auditor of the steps he must take to ensure that the statement is correct, and
- (b) if the third country auditor has not taken those steps on or before the date three months after the notification, remove him from the register.

(2) The designated body may remove a third country auditor from the register if it considers that the third country auditor has failed to comply with his obligations under—

- (a) regulation 39 (duty to provide updated information),
- (b) section 1242 of the Companies Act 2006<sup>(11)</sup> (duties of registered third country auditors),
- (c) section 1243 of that Act (matters to be notified to the Secretary of State), or
- (d) section 1244 of that Act (Secretary of State’s power to call for information).

## PART 6

### OTHER AMENDMENTS AND REVOCATIONS

#### Meaning of “appropriate audit authority” and “major audit”

**41.**—(1) Section 525(1) of the Companies Act 2006 (meaning of “appropriate audit authority”) is amended as follows.

- (2) In paragraph (a) after “major audit” insert “(other than one conducted by an Auditor General)”.
- (3) In paragraph (b) after “an audit” insert “(other than one conducted by an Auditor General)”.
- (4) After paragraph (b) insert—
  - “(c) in the case of an audit conducted by an Auditor General, the Independent Supervisor.”.
- (5) In the closing words—
  - (a) for ““Supervisory body” has the same meaning” substitute ““Supervisory body” and “Independent Supervisor” have the same meaning”;
  - (b) for “section 1217” substitute “sections 1217 and 1228”.

#### Grounds for petition by company member

**42.**—(1) In section 994 of the Companies Act 2006 (protection of members against unfair prejudice: petition by company member), after subsection (1) insert—

“(1A) For the purposes of subsection (1)(a), a removal of the company’s auditor from office—

- (a) on grounds of divergence of opinions on accounting treatments or audit procedures, or
- (b) on any other improper grounds,

shall be treated as being unfairly prejudicial to the interests of some part of the company’s members.”.

(2) This amendment does not apply in relation to auditors appointed for financial years beginning before 6th April 2008.

#### Exclusion of large debt securities issuer from definition of “UK-traded non-EEA company”

**43.**—(1) A large debt securities issuer is excluded from the definition of “UK-traded non-EEA company” for the purposes of Part 42 of the Companies Act 2006 (see section 1241(2)).

(2) In paragraph (1) “large debt securities issuer” means a body corporate whose only issued transferable securities admitted to trading on a regulated market are debt securities, the denomination per unit of which is not less than—

- (a) 50,000 euros, or
- (b) in the case of debt securities denominated in a currency other than euros, a sum equivalent at the date of issue to 50,000 euros.

(3) In paragraph (2)—

“debt securities” has the same meaning as in Article 2.1(b) of Directive [2004/109/EC](#) of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive [2001/34/EC](#)(**12**);

“transferable securities” and “regulated market” have the same meaning as in section 1241(3) of the Companies Act 2006.

### **Practical training**

**44.** In paragraph 9(4)(b) of Schedule 11 to the Companies Act 2006(**13**) (practical training) for “a member State” in both places where it occurs substitute “an EEA State”.

### **Revocations and savings**

**45.**—(1) The Company Auditors (Examinations) Regulations 1990(**14**) are revoked.

(2) The Company Auditors (Examinations) Regulations (Northern Ireland) 1990(**15**) are revoked.

(3) The Companies Act 1989 (Register of Auditors and Information About Audit Firms) Regulations 1991(**16**) are revoked.

(4) The Companies (1990 Order) (Register of Auditors and Information About Audit Firms) Regulations (Northern Ireland) 1991(**17**) are revoked.

(5) The European Communities (Recognition of Professional Qualifications) (First General System) Regulations 2005(**18**) are revoked for the purposes of their application to the profession of company auditor, except for the purposes of their application in relation to auditors appointed for financial years beginning before 6th April 2008.

*Stephen Timms*  
Minister of State for Competitive  
Department for Business, Enterprise and  
Regulatory Reform

17th December 2007

(12) OJ L 390, 31.12.2004, p. 38.

(13) [2006 c.46](#).

(14) [S.I. 1990/1146](#).

(15) [S.R. 1990/309](#).

(16) [S.I. 1991/1566](#).

(17) [S.R. 1991/500](#).

(18) [S.I. 2005/18](#). The 2005 Regulations were revoked for all other purposes by regulation 39 of, and Schedule 6 to, the European Communities (Recognition of Professional Qualifications) Regulations 2007 ([S.I. 2007/2781](#)).



## SCHEDULE

Regulation 10(2)

### Schedule 11A to the Companies Act 2006

#### “SCHEDULE 11A

Specified persons, descriptions, disclosures etc for the purposes of section 1224A

### PART 1

#### Specified persons

1. The Secretary of State.
2. The Department of Enterprise, Trade and Investment for Northern Ireland.
3. The Treasury.
4. The Bank of England.
5. The Financial Services Authority.
6. The Commissioners for Her Majesty’s Revenue and Customs.
7. The Lord Advocate.
8. The Director of Public Prosecutions.
9. The Director of Public Prosecutions for Northern Ireland.
10. A constable.
11. A procurator fiscal.
12. The Scottish Ministers.
13. A body designated by the Secretary of State under section 1252 (delegation of the Secretary of State’s functions).
14. A recognised supervisory body.
15. A recognised qualifying body.
16. A body with which a recognised supervisory body is participating in arrangements for the purposes of paragraph 23 (independent monitoring of audits) or 24 (independent investigation for disciplinary purposes) of Schedule 10 to this Act.
17. The Independent Supervisor.

### PART 2

#### Specified descriptions of disclosures

18. A disclosure for the purpose of enabling or assisting a person authorised under section 457 of this Act (persons authorised to apply to court) to exercise his functions.
19. A disclosure for the purpose of enabling or assisting an inspector appointed under Part 14 of the Companies Act 1985 (investigation of companies and their affairs, etc) to exercise his functions.

*Status: This is the original version (as it was originally made).*

**20.** A disclosure for the purpose of enabling or assisting a person authorised under section 447 of the Companies Act 1985 (power to require production of documents) or section 84 of the Companies Act 1989 (c.40) (exercise of powers by officer etc) to exercise his functions.

**21.** A disclosure for the purpose of enabling or assisting a person appointed under section 167 of the Financial Services and Markets Act 2000 (c.8) (general investigations) to conduct an investigation to exercise his functions.

**22.** A disclosure for the purpose of enabling or assisting a person appointed under section 168 of the Financial Services and Markets Act 2000 (investigations in particular cases) to conduct an investigation to exercise his functions.

**23.** A disclosure for the purpose of enabling or assisting a person appointed under section 169(1) (b) of the Financial Services and Markets Act 2000 (investigation in support of overseas regulator) to conduct an investigation to exercise his functions.

**24.** A disclosure for the purpose of enabling or assisting the body corporate responsible for administering the scheme referred to in section 225 of the Financial Services and Markets Act 2000 (the ombudsman scheme) to exercise its functions.

**25.** A disclosure for the purpose of enabling or assisting a person appointed under paragraph 4 (the panel of ombudsmen) or 5 (the Chief Ombudsman) of Schedule 17 to the Financial Services and Markets Act 2000 to exercise his functions.

**26.** A disclosure for the purpose of enabling or assisting a person appointed under regulations made under section 262(1) and (2)(k) of the Financial Services and Markets Act 2000 (investigations into open-ended investment companies) to conduct an investigation to exercise his functions.

**27.** A disclosure for the purpose of enabling or assisting a person appointed under section 284 of the Financial Services and Markets Act 2000 (investigations into affairs of certain collective investment schemes) to conduct an investigation to exercise his functions.

**28.** A disclosure for the purpose of enabling or assisting the investigator appointed under paragraph 7 of Schedule 1 to the Financial Services and Markets Act 2000 (arrangements for investigation of complaints) to exercise his functions.

**29.** A disclosure for the purpose of enabling or assisting a person appointed by the Treasury to hold an inquiry into matters relating to financial services (including an inquiry under section 15 of the Financial Services and Markets Act 2000 (c.8)) to exercise his functions.

**30.** A disclosure for the purpose of enabling or assisting the Secretary of State or the Treasury to exercise any of their functions under any of the following—

- (a) the Companies Acts;
- (b) Part 5 of the Criminal Justice Act 1993 (c.36) (insider dealing);
- (c) the Insolvency Act 1986 (c.45);
- (d) the Company Directors Disqualification Act 1986 (c.46);
- (e) Part 42 of this Act (statutory auditors)
- (f) Part 3 (investigations and powers to obtain information) or 7 (financial markets and insolvency) of the Companies Act 1989 (c.40);
- (g) the Financial Services and Markets Act 2000.

**31.** A disclosure for the purpose of enabling or assisting the Scottish Ministers to exercise their functions under the enactments relating to insolvency.

**32.** A disclosure for the purpose of enabling or assisting the Department of Enterprise, Trade and Investment for Northern Ireland to exercise any powers conferred on it by the enactments relating to companies or insolvency.

**33.** A disclosure for the purpose of enabling or assisting a person appointed or authorised by the Department of Enterprise, Trade and Investment for Northern Ireland under the enactments relating to companies or insolvency to exercise his functions.

**34.** A disclosure for the purpose of enabling or assisting the Pensions Regulator to exercise the functions conferred on it by or by virtue of any of the following—

- (a) the Pension Schemes Act 1993 (c.48);
- (b) the Pensions Act 1995 (c.26);
- (c) the Welfare Reform and Pensions Act 1999 (c.30);
- (d) the Pensions Act 2004 (c.35);
- (e) any enactment in force in Northern Ireland corresponding to any of those enactments.

**35.** A disclosure for the purpose of enabling or assisting the Board of the Pension Protection Fund to exercise the functions conferred on it by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.

**36.** A disclosure for the purpose of enabling or assisting—

- (a) the Bank of England,
- (b) the European Central Bank, or
- (c) the central bank of any country or territory outside the United Kingdom, to exercise its functions.

**37.** A disclosure for the purpose of enabling or assisting the Commissioners for Her Majesty's Revenue and Customs to exercise their functions.

**38.** A disclosure for the purpose of enabling or assisting organs of the Society of Lloyd's (being organs constituted by or under the [Lloyd's Act 1982 \(c.xiv\)](#)) to exercise their functions under or by virtue of the Lloyd's Acts 1871 to 1982.

**39.** A disclosure for the purpose of enabling or assisting the Office of Fair Trading to exercise its functions under any of the following—

- (a) the Fair Trading Act 1973 (c.41);
- (b) the Consumer Credit Act 1974 (c.39);
- (c) the Estate Agents Act 1979 (c.38);
- (d) the Competition Act 1980 (c.21);
- (e) the Competition Act 1998 (c.41);
- (f) the Financial Services and Markets Act 2000 (c.8);
- (g) the Enterprise Act 2002 (c.40);
- (h) the Control of Misleading Advertisements Regulations 1988 (S.I. 1988/915);
- (i) the Unfair Terms in Consumer Contracts Regulations 1999 (S.I. 1999/2083).

**40.** A disclosure for the purpose of enabling or assisting the Competition Commission to exercise its functions under any of the following—

- (a) the Fair Trading Act 1973;
- (b) the Competition Act 1980;
- (c) the Competition Act 1998;

(d) the Enterprise Act 2002.

**41.** A disclosure with a view to the institution of, or otherwise for the purposes of, proceedings before the Competition Appeal Tribunal.

**42.** A disclosure for the purpose of enabling or assisting an enforcer under Part 8 of the Enterprise Act 2002 (enforcement of consumer legislation) to exercise its functions under that Part.

**43.** A disclosure for the purpose of enabling or assisting the Takeover Panel to perform any of its functions under Part 28 of this Act (takeovers etc).

**44.** A disclosure for the purpose of enabling or assisting the Charity Commission to exercise its functions.

**45.** A disclosure for the purpose of enabling or assisting the Attorney General to exercise his functions in connection with charities.

**46.** A disclosure for the purpose of enabling or assisting the National Lottery Commission to exercise its functions under sections 5 to 10 (licensing) and 15 (power of Secretary of State to require information) of the National Lottery etc. Act 1993 (c.39).

**47.** A disclosure by the National Lottery Commission to the National Audit Office for the purpose of enabling or assisting the Comptroller and Auditor General to carry out an examination under Part 2 of the National Audit Act 1983 (c.44) into the economy, effectiveness and efficiency with which the National Lottery Commission has used its resources in discharging its functions under sections 5 to 10 of the National Lottery etc. Act 1993.

**48.** A disclosure for the purpose of enabling or assisting a qualifying body under the Unfair Terms in Consumer Contracts Regulations 1999 (S.I. 1999/2083) to exercise its functions under those Regulations.

**49.** A disclosure for the purpose of enabling or assisting an enforcement authority under the Consumer Protection (Distance Selling) Regulations 2000 (S.I. 2000/2334) to exercise its functions under those Regulations.

**50.** A disclosure for the purpose of enabling or assisting an enforcement authority under the Financial Services (Distance Marketing) Regulations 2004 (S.I. 2004/2095) to exercise its functions under those Regulations.

**51.** A disclosure for the purpose of enabling or assisting a local weights and measures authority in England and Wales to exercise its functions under section 230(2) of the Enterprise Act 2002 (c.40) (notice of intention to prosecute, etc).

**52.** A disclosure for the purpose of enabling or assisting the Financial Services Authority to exercise its functions under any of the following—

- (a) the legislation relating to friendly societies or to industrial and provident societies;
- (b) the Building Societies Act 1986 (c.53);
- (c) Part 7 of the Companies Act 1989 (c.40) (financial markets and insolvency);
- (d) the Financial Services and Markets Act 2000 (c.8).

**53.** A disclosure for the purpose of enabling or assisting the competent authority for the purposes of Part 6 of the Financial Services and Markets Act 2000 (official listing) to exercise its functions under that Part.

**54.** A disclosure for the purpose of enabling or assisting a body corporate established in accordance with section 212(1) of the Financial Services and Markets Act 2000 (compensation scheme manager) to exercise its functions.

**55.** A disclosure for the purpose of enabling or assisting a recognised investment exchange or a recognised clearing house to exercise its functions as such.

“Recognised investment exchange” and “recognised clearing house” have the same meaning as in section 285 of the Financial Services and Markets Act 2000.

**56.** A disclosure for the purpose of enabling or assisting a person approved under the Uncertificated Securities Regulations 2001 ([S.I. 2001/3755](#)) as an operator of a relevant system (within the meaning of those regulations) to exercise his functions.

**57.** A disclosure for the purpose of enabling or assisting a body designated under section 326(1) of the Financial Services and Markets Act 2000 (designated professional bodies) to exercise its functions in its capacity as a body designated under that section.

**58.** A disclosure with a view to the institution of, or otherwise for the purposes of, civil proceedings arising under or by virtue of the Financial Services and Markets Act 2000.

**59.** A disclosure for the purpose of enabling or assisting a body designated by order under section 1252 of this Act (delegation of functions of Secretary of State) to exercise its functions under Part 42 of this Act (statutory auditors).

**60.** A disclosure for the purpose of enabling or assisting a recognised supervisory or qualifying body, within the meaning of Part 42 of this Act, to exercise its functions as such.

**61.** A disclosure for the purpose of making available to an audited person information relating to a statutory audit of that person’s accounts.

**62.** A disclosure for the purpose of making available to the public information relating to monitoring or inspections carried out under arrangements within paragraph 23(1) of Schedule 10 to this Act (arrangements for independent monitoring of audits of listed companies and other major bodies), provided such information does not identify any audited person.

**63.** A disclosure for the purpose of enabling or assisting an official receiver (including the Accountant in Bankruptcy in Scotland and the Official Assignee in Northern Ireland) to exercise his functions under the enactments relating to insolvency.

**64.** A disclosure for the purpose of enabling or assisting the Insolvency Practitioners Tribunal to exercise its functions under the Insolvency Act [1986 \(c.45\)](#).

**65.** A disclosure for the purpose of enabling or assisting a body that is for the time being a recognised professional body for the purposes of section 391 of the Insolvency Act 1986 (recognised professional bodies) to exercise its functions as such.

**66.** A disclosure for the purpose of enabling or assisting an overseas regulatory authority to exercise its regulatory functions.

“Overseas regulatory authority” and “regulatory functions” have the same meaning as in section 82 of the Companies Act 1989.

**67.** A disclosure for the purpose of enabling or assisting the Regulator of Community Interest Companies to exercise functions under the Companies (Audit, Investigations and Community Enterprise) Act [2004 \(c.27\)](#).

**68.** A disclosure with a view to the institution of, or otherwise for the purposes of, criminal proceedings.

**69.** A disclosure for the purpose of enabling or assisting a person authorised by the Secretary of State under Part 2, 3 or 4 of the Proceeds of Crime Act [2002 \(c.29\)](#) to exercise his functions.

**70.** A disclosure with a view to the institution of, or otherwise for the purposes of, proceedings on an application under section 6, 7 or 8 of the Company Directors Disqualification Act 1986 (c.46) (disqualification for unfitness).

**71.** A disclosure with a view to the institution of, or otherwise for the purposes of, proceedings before the Financial Services and Markets Tribunal.

**72.** A disclosure for the purposes of proceedings before the Financial Services Tribunal by virtue of the Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001 (S.I. 2001/3592).

**73.** A disclosure for the purposes of proceedings before the Pensions Regulator Tribunal.

**74.** A disclosure for the purpose of enabling or assisting a body appointed under section 14 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (supervision of periodic accounts and reports of issuers of listed securities) to exercise functions mentioned in subsection (2) of that section.

**75.** A disclosure with a view to the institution of, or otherwise for the purposes of, disciplinary proceedings relating to the performance by a relevant lawyer, foreign lawyer, auditor, accountant, valuer or actuary of his professional duties.

In this paragraph—

“foreign lawyer” means a person (other than a relevant lawyer) who is a foreign lawyer within the meaning of section 89(9) of the Courts and Legal Services Act 1990;

“relevant lawyer” means—

- (a) a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes a reserved legal activity (within the meaning of that Act),
- (b) a solicitor or barrister in Northern Ireland, or
- (c) a solicitor or advocate in Scotland.

**76.** A disclosure with a view to the institution of, or otherwise for the purposes of, disciplinary proceedings relating to the performance by a public servant of his duties.

“Public servant” means an officer or employee of the Crown.

**77.** A disclosure for the purpose of the provision of a summary or collection of information framed in such a way as not to enable the identity of any person to whom the information relates to be ascertained.

**78.** A disclosure in pursuance of any Community obligation.

## PART 3

### Overseas regulatory bodies

**79.** A disclosure is made in accordance with this Part of this Schedule if it is made to an EEA competent authority in accordance with section 1253B (requests from EEA competent authorities).

**80.** A disclosure is made in accordance with this Part of this Schedule if it is—

- (a) a transfer of audit working papers to a third country competent authority in accordance with rules imposed under paragraph 16A of Schedule 10 (transfer of papers to third countries), or

- (b) a disclosure other than a transfer of audit working papers made to a third country competent authority for the purpose of enabling or assisting the authority to exercise its functions.”

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Regulations implement in part Directive [2006/43/EC](#) of the European Parliament and of the Council on statutory audits of annual accounts and consolidated accounts, amending Council Directives [78/660/EEC](#) and [83/349/EEC](#) and repealing Council Directive [84/253/EEC](#)<sup>(19)</sup> (“the Audit Directive”).

Regulations 4 to 16 amend provisions in Part 42 of the Companies Act 2006<sup>(20)</sup> (statutory auditors). Regulation 4 requires supervisory bodies to extend certain of their rules to former members. Regulation 6 requires an aptitude test in connection with the recognition of the qualifications of third country auditors. Regulation 8 and the Schedule impose an obligation of confidentiality in relation to the regulatory bodies for the audit profession. Regulation 14 requires those bodies to cooperate with regulatory bodies in other EEA States, and regulation 15 imposes requirements in relation to working arrangements entered into by them for the transfer of papers to regulatory bodies outside of the EEA.

Regulation 9 allows the Independent Supervisor of the Auditors General a choice as to whether to establish supervision arrangements itself, or to enter into supervision arrangements with other bodies. Regulation 16 extends the power of the Secretary of State to issue directions to comply with international obligation, so that they may be issued to the Independent Supervisor.

Regulations 17 to 28 amend provisions in Schedule 10 to the Companies Act 2006, which have the effect of requiring recognised supervisory bodies to have certain rules with which their members must comply if they wish to act as statutory auditors. Regulation 17 requires an aptitude test in connection with the recognition of qualifications of EEA auditors. Regulations 19 and 21 introduce additional reporting and independence requirements, and regulation 20 requires certain technical standards in relation to group audits. Regulations 22 and 23 impose requirements as to the monitoring and enforcement of the bodies’ rules. Regulation 24 regulates the transfer by statutory auditors of papers to regulatory bodies outside of the EEA. Regulations 26 to 28 require some standards to be set, and some monitoring to be conducted, by a body independent of the recognised supervisory bodies.

Regulations 29 to 40 set out procedural and substantive requirements for the registration of third country auditors and make some minor amendments to the Companies Act 2006. Regulation 34 requires the Professional Oversight Board to keep the register. The Financial Services Authority is to make rules stipulating that an audit report for the accounts of certain third country companies admitted to trading on a regulated market in the United Kingdom must be provided by either a third country auditor entered on this register or a statutory auditor.

Regulation 30 extends the power in section 1239(7) of the Companies Act 2006 so that the Secretary of State may direct in writing that specified requirements of regulations concerning the register of

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<sup>(19)</sup> OJ L 157, 9.6.2006, p. 87. The Directive extends to the European Economic Area by virtue of Decision of the EEA Joint Committee No. 160/2006 of 8 December 2006 amending Annex XXII (Company law) to the EEA Agreement (not yet published in the Official Journal).

<sup>(20)</sup> [2006 c.46](#).

**Status:** This is the original version (as it was originally made).

third country auditors are not to apply to a particular registered third country auditor or a class of registered third country auditors.

Regulation 42 amends section 994 of the Companies Act 2006. It allows a company member to petition a court if the company's auditor has been dismissed on improper grounds.

Regulation 45 revokes the Company Auditors (Examinations) Regulations 1990<sup>(21)</sup>, the Companies Act 1989 (Register of Auditors and Information About Audit Firms) Regulations 1991<sup>(22)</sup>, and the equivalent Northern Ireland regulations. It is intended that all will be replaced by regulations to be made by the Professional Oversight Board. Regulation 45 also revokes the European Communities (Recognition of Professional Qualifications) (First General System) Regulations 2005<sup>(23)</sup>, the provisions of which are replaced by regulation 17, insofar as they relate to statutory auditors.

An Impact Assessment in respect of these Regulations has been produced and copies are available from the Company Law and Governance Directorate, Department for Business, Enterprise and Regulatory Reform, 1 Victoria Street, London, SW1H 0ET or on [www.berr.gov.uk](http://www.berr.gov.uk).

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(21) [S.I. 1990/1146](#).

(22) [S.I. 1991/1566](#).

(23) [S.I. 2005/18](#). The 2005 Regulations were revoked for all other purposes by regulation 39 of, and Schedule 6 to, the European Communities (Recognition of Professional Qualifications) Regulations 2007 ([S.I. 2007/2781](#)).