

**2008 No. 623**

**COMPANIES**

**The Companies (Defective Accounts and Directors' Reports)  
(Authorised Person) and Supervision of Accounts and Reports  
(Prescribed Body) Order 2008**

<i>Made</i> - - - -	<i>5th March 2008</i>
<i>Laid before Parliament</i>	<i>10th March 2008</i>
<i>Coming into force</i> - -	<i>6th April 2008</i>

It appears to the Secretary of State that the Financial Reporting Review Panel is a person or body—

- (a) having an interest in, and having satisfactory procedures directed to—
  - (i) securing compliance by companies with the requirements of the Companies Act 2006(a) (or, where applicable, Article 4 of the IAS Regulation(b)) relating to accounts and directors' reports;
  - (ii) monitoring compliance by issuers of transferable securities with accounting requirements imposed by Part 6 rules(c) in relation to periodic accounts and reports produced by such issuers;
- (b) having satisfactory procedures for receiving and investigating complaints about the annual accounts and directors' reports of companies;
- (c) which is otherwise a fit and proper person to be authorised and a fit and proper body to be appointed;
- (d) which will exercise its functions as an authorised person and as a prescribed body in accordance with the requirements of this Order:

The Secretary of State makes the following Order in exercise of the powers conferred by section 14(1), (5) and (8) of the Companies (Audit, Investigations and Community Enterprise) Act 2004(d) and by section 457(1), (2), (5) and (6) of the Companies Act 2006:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Companies (Defective Accounts and Directors' Reports) (Authorised Person) and Supervision of Accounts and Reports (Prescribed Body) Order 2008 and comes into force on 6th April 2008.

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(a) 2006 c.46.  
(b) Regulation (EC) No. 1606/2002 of the European Parliament and the Council of 19.7.2002 (OJ L 243, 11.9.2002, p.1).  
(c) Defined in section 103(1) of the Financial Services and Markets Act 2000 (c.8); section 103 was substituted by S.I. 2005/1433.  
(d) 2004 c.27; section 14 was amended by regulation 2(3) of, and paragraph 5 of Schedule 3 to, S.I. 2005/1433 and by section 1272 of, and paragraphs 13 and 14 of Schedule 15 to the Companies Act 2006.

(2) In this Order—

“the FRRP” means the body known as the Financial Reporting Review Panel established under the articles of association of The Financial Reporting Council Limited(a);

“regulated market” has the meaning given by Article 4(1)(14) of Directive 2004/39/EC of the European Parliament and of the Council on markets in financial instruments(b);

“the transparency obligations directive” means Directive 2004/109/EC of the European Parliament and of the Council relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market(c).

### **Authorisation**

2. The FRRP is hereby authorised for the purposes of section 456 of the Companies Act 2006 (application to court in respect of defective accounts or reports).

### **Appointment in relation to issuers**

3.—(1) The FRRP is appointed to exercise the functions mentioned in section 14(2) of the Companies (Audit, Investigations and Community Enterprise) Act 2004 in respect of any issuer of transferable securities admitted to trading on a regulated market which is—

- (a) a body corporate incorporated or otherwise formed under the law of, or of a part of, the United Kingdom of which the United Kingdom is the home Member State for the purposes of the transparency obligations directive;
- (b) a body corporate incorporated or otherwise formed under the law of a place outside the United Kingdom of which the United Kingdom is the home Member State for the purposes of the transparency obligations directive.

(2) In paragraph (1), “issuer” does not include a person which is not required to comply with the reporting requirements of provisions implementing Articles 4 and 5 of the transparency obligations directive (annual financial reports and half-yearly financial reports) by virtue of—

- (a) provisions implementing Article 8(1) of that Directive (exemptions), or
- (b) the Transparency Obligations Directive (Disclosure and Transparency Rules) Instrument 2006 made by the Financial Services Authority under the Financial Services and Markets Act 2000 on 21st December 2006(d).

### **Appointment in relation to accounts**

4. The FRRP is appointed to exercise the functions mentioned in section 14(2) of the Companies (Audit, Investigations and Community Enterprise) Act 2004 only in respect of the periodic accounts and reports required to be produced under Articles 4 and 5 of the transparency obligations directive.

### **Decision recording requirements**

5. The FRRP must have satisfactory arrangements for recording decisions made in the exercise of the functions it exercises by virtue of its authorisation or appointment and for the safekeeping of those records which ought to be preserved.

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(a) Registered number 02486368.

(b) OJ L 145, 30.4.2004, p.1.

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

(d) FSA 2006/70. The Order is available on the Financial Services Authority’s website at [www.fsa.gov.uk/Pages/handbook](http://www.fsa.gov.uk/Pages/handbook).

## Revocations and transitional provisions

6.—(1) Subject to paragraph (2), the Companies (Defective Accounts) (Authorised Person) Order (Northern Ireland) 1991(a) and the Companies (Defective Accounts) (Authorised Person) Order 2005(b) are hereby revoked.

(2) Any proceedings by the former body known as the Financial Reporting Review Panel under section 245B of the Companies Act 1985(c) or Article 253B of the Companies (Northern Ireland) Order 1986(d) which are pending immediately before 6th April 2008 are to continue as proceedings by the FRRP.

7.—(1) Articles 3 and 4 of this Order apply in respect of periodic accounts and reports relating to financial years beginning on or after 6th April 2008.

(2) Subject to paragraphs (3) and (4), the Supervision of Accounts and Reports (Prescribed Body) Order 2007(e) is hereby revoked.

(3) The Supervision of Accounts and Reports (Prescribed Body) Order 2005(f), which continues in operation by virtue of article 2 of the Supervision of Accounts and Reports (Prescribed Body) Order 2007, shall continue to apply in respect of periodic accounts and reports—

(a) to which section 14(2)(a) of the Act as amended by the Companies Act 2006 applies; and

(b) which relate to financial years beginning before 20th January 2007,

and the FRRP shall exercise the functions for the exercise of which the prescribed body had been appointed by the Supervision of Accounts and Reports (Prescribed Body) Order 2005.

(4) The Supervision of Accounts and Reports (Prescribed Body) Order 2007 shall continue to apply in respect of periodic accounts and reports which relate to financial years beginning on or after 20th January 2007, and the FRRP shall exercise the functions for the exercise of which the prescribed body had been appointed by the Supervision of Accounts and Reports (Prescribed Body) Order 2007.

*Gareth Thomas*

Parliamentary Under Secretary of State for Trade and Consumer Affairs,  
Department for Business, Enterprise and Regulatory Reform

5th March 2008

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(a) S.R. 1991/269.

(b) S.I. 2005/699.

(c) Section 245B was inserted by sections 1 and 12 of the Companies Act 1989, and amended by regulation 10 of S.I. 2002/1986, by regulation 3 of, and paragraphs 1 and 11 of Schedule 1 to, S.I. 2004/2947, by regulation 16 of S.I. 2005/1011, and by regulation 2 of, and paragraph 11 of Schedule 1 to, S.I. 2005/3442.

(d) S.I. 1986/1032 (N.I. 6). Article 253B was inserted by Articles 3 and 14 of the Companies (Northern Ireland) Order 1990, and amended by S.R. 2004/499, S.R. 2005/56 and S.R. 2005/61.

(e) S.I. 2007/2583.

(f) S.I. 2005/715.

## EXPLANATORY NOTE

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

This Order authorises the Financial Reporting Review Panel established under the articles of association of the Financial Reporting Council Limited for the purposes of section 456 of the Companies Act 2006 (application to court in respect of defective accounts or directors' reports) (article 2). It replaces the Companies (Defective Accounts) (Authorised Person) Order 2005 and the Companies (Defective Accounts) (Authorised Person) Order (Northern Ireland) 1991 under which the Financial Reporting Review Panel as established under the articles of association of the Financial Reporting Review Panel Limited was authorised for the purposes of section 245B of the Companies Act 1985 and Article 253B of the Companies (Northern Ireland) Order 1986.

Article 3 of the Order also appoints the Financial Reporting Review Panel established under the articles of association of the Financial Reporting Council Limited to exercise the functions mentioned in section 14(2) of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27) as amended by the Companies Act 2006 (c.46). These functions are the keeping under review of periodic accounts and reports that are produced by issuers of transferable securities and are required to comply with any accounting requirements imposed by Part 6 rules made under the Financial Services and Markets Act 2000 (c.8), and informing the Financial Services Authority of any conclusions the Panel reaches if it thinks fit. It replaces the Supervision of Accounts and Reports (Prescribed Body) Order 2007 (S.I. 2007/2583) and continues the partial implementation of Directive 2004/109/EC of the European Parliament and of the Council relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (OJ L 390, 31.12.2004, p.38) ("the Directive").

Article 3 limits the appointment to issuers of transferable securities admitted to trading on a regulated market which are bodies corporate and of which the United Kingdom is the home Member State for the purposes of the Directive. Article 4 limits the appointment to periodic accounts and reports required to be produced under Articles 4 and 5 of the Directive (annual and half-yearly financial reports).

Article 5 contains a requirement for record keeping in relation to the functions conferred by this Order.

Articles 6 and 7 contain revocations and transitional provisions.

A transposition note which sets out how the main elements of the Directive have been transposed into United Kingdom law is at Annex A to the notes accompanying the Companies Act 2006 and is available on the Office of Public Sector Information's website at [www.opsi.gov.uk/acts.htm](http://www.opsi.gov.uk/acts.htm). An assessment of the effects of the Directive on the costs of and benefits to business is included in the Regulatory Impact Assessment for the Companies Act 2006 and is available on the Department for Business, Enterprise and Regulatory Reform's website at [www.berr.gov.uk/bbf/co-act-2006](http://www.berr.gov.uk/bbf/co-act-2006) or from the Corporate Law and Governance Directorate, 5th Floor, 1 Victoria Street, London SW1H 0ET. A full impact assessment has not been produced for this Order as no impact on the private or voluntary sectors is foreseen.

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