

*This draft Statutory Instrument has been printed in substitution of the draft Statutory Instrument of the same title which was laid before Parliament and published on 12th May 2016 (ISBN 978-0-11-114686-6). It is being issued free of charge to all known recipients of that draft Statutory Instrument.*

*Draft Regulations laid before Parliament under paragraph 2 of Schedule 2 to the European Communities Act 1972, section 18A(8) of the Companies (Audit, Investigations and Community Enterprise) Act 2004 and sections 1252(11), 1290 and 1292(4) of the Companies Act 2006, for approval by resolution of each House of Parliament.*

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## DRAFT STATUTORY INSTRUMENTS

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**2016 No. XXXX**

# COMPANIES AUDITORS

## The Statutory Auditors and Third Country Auditors Regulations 2016

Made - - - - - \*\*\*

*Coming into force in accordance with regulation 1(1)*

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.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, section 18A(1) and (3) and (6) of the Companies (Audit, Investigations and Community Enterprise) Act 2004<sup>(3)</sup> and by sections 494(1), (2)(b) and (4) (a), 519A(5), 1241(2)(c), 1252(1) and (8) and 1292(1)(a), (2) and (4) of, and paragraph 11(2) of Schedule 13 to, the Companies Act 2006<sup>(4)</sup>.

In accordance with paragraph 2 of Schedule 2 to the European Communities Act 1972, sections 1252(11), 1290 and 1292(4) of the Companies Act 2006 and section 18A(8) of the Companies (Audit, Investigations and Community Enterprise) Act 2004, a draft of these Regulations has been laid before Parliament and approved by resolution of each House of Parliament.

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(1) [S.I. 2007/1679](#).

(2) [1972 c. 68](#). Section 2(2) was amended by section 27 of the Legislation and Regulatory Reform Act [2006 \(c. 51\)](#) and section 3 of, and Part 1 of the Schedule to, the European Union (Amendment) Act [2008 \(c. 7\)](#).

(3) [2004 c. 27](#). Section 18A was inserted by section 38 of the Small Business, Enterprise and Employment Act [2015 \(c. 26\)](#): see section 18A(5) for the definition of “specified”.

(4) [2006 c. 46](#).

## PART 1

### Introduction

#### **Citation, commencement and application**

1.—(1) These Regulations may be cited as the Statutory Auditors and Third Country Auditors Regulations 2016 and come into force—

- (a) on 17th June 2016, if the Regulations are made on or before 16th June 2016;
- (b) on the day after the day on which the Regulations are made, if they are made on or after 17th June 2016.

(2) The following provisions of Schedule 3 to these Regulations apply in relation to financial years beginning on or after 17th June 2016—

- (a) Part 3;
- (b) paragraphs 43 to 49;
- (c) in paragraph 51—
  - (i) sub-paragraph (2)(a), in so far as it relates to the insertion of the definition of “audit working papers and investigation reports”;
  - (ii) sub-paragraphs (2)(c) and (e);
- (d) in paragraph 52—
  - (i) sub-paragraph (2), in so far as it relates to the insertion of the entry relating to “audit working papers and investigations reports”;
  - (ii) sub-paragraph (3);
- (e) paragraphs 68 to 69;
- (f) paragraph 73(3).

(3) Paragraph 72 of Schedule 3, in so far as it relates to paragraphs 21 to 22B of Schedule 10 to the Act, does not apply in relation to financial years beginning before 17th June 2016.

(4) In regulation 18—

- (a) paragraph (2)(a) applies in relation to financial years beginning on or after 1st January 2016; and
- (b) paragraph (3) applies in relation to financial years beginning on or after the day on which these Regulations come into force.

(5) Standards set by the competent authority in accordance with Schedule 1 to these Regulations apply in relation to financial years beginning on or after 17th June 2016.

(6) Schedule 4 to these Regulations applies in relation to financial years beginning on or after 17th June 2016.

(7) Regulations 5 to 8 do not apply to decisions made by the competent authority following an investigation which commences before the day on which these Regulations come into force or occurs as a result of a complaint or referral made before that day.

(8) The amendments made by paragraphs 67 and 72 (in so far as it relates to paragraph 24 of Schedule 10) of Schedule 3 to these Regulations do not apply to investigations under arrangements mentioned in those paragraphs which occur as a result of a complaint or referral made before the day on which these Regulations come into force.

(9) The amendments made by paragraph 65 (in so far as it relates to paragraph 13 of Schedule 10) and by paragraph 72 (in so far as it relates to paragraphs 23 and 23A of that Schedule) of Schedule 3 do not apply to enforcement action which is taken following an inspection under arrangements

mentioned in those paragraphs and which begins before the day on which these Regulations come into force.

(10) The amendment made by paragraph 3 of Schedule 3 to these Regulations does not apply where paragraph 23 of Schedule 10 to the Act continues to apply by virtue of paragraph (8) of this regulation.

(11) The amendment made by paragraph 1(2)(a) of Schedule 5 to these Regulations does not apply where paragraph 23 and 23A of Schedule 10 to the Act continue to apply by virtue of paragraph (8) of this regulation.

(12) The amendments made by these Regulations to Part 16 of the Companies Act 2006 do not have effect in relation to the application of any provision of that Part to limited liability partnerships by the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008(5).

## Interpretation

### 2. In these Regulations—

“the Act” means the Companies Act 2006(6);

“appropriate qualification”, “audited person”, “EEA auditor”, “EEA competent authority”, “firm”, “group”, “parent undertaking”, “statutory audit”, “statutory auditor”, “statutory audit work”, “third country” and “third country auditor” have the same meaning as in Part 42 of the Act;

“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](#)(7);

“Audit Regulation” means Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission [Decision 2005/909/EC](#)(8);

“audit report” means the report required in accordance with the audit reporting requirements;

“audit reporting requirements” means the requirements of—

- (a) sections 495 to 498A(9) and 503 to 506 of the Act,
- (b) sections 495, 498 and 503 to 506 of the Act as applied to an LLP by the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (and “LLP” has the meaning given by regulation 3 of those Regulations),
- (c) sections 495, 496 and 498 of the Act as applied to the auditor of a qualifying partnership, and sections 503 to 506 of that Act as applied in relation to the auditors’ report for a qualifying partnership, by the Partnerships (Accounts) Regulations 2008(10) (“qualifying partnership” has the meaning given by regulation 3 of those Regulations),
- (d) sections 495 to 498A of the Act as applied to an unregistered company by the Unregistered Companies Regulations 2009(11) (“unregistered company” has the meaning given by regulation 2 of those Regulations),

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(5) [S.I. 2008/1911](#). Relevant amending instruments are [S.I. 2009/1804](#) and [S.I. 2016/575](#).

(6) 2006 c. 46.

(7) OJ L 157/87 09.06.06. This Directive was amended by Directives [2008/30/EC](#), [2013/34/EU](#) and [2014/56/EU](#).

(8) OJ L 158/77 27.05.14.

(9) Section 495 was amended by [S.I. 2013/3008](#). Section 496 was substituted by [S.I. 2015/980](#). Section 497A was inserted by [S.I. 2009/1581](#) and substituted by [S.I. 2015/980](#); there are other amendments but none is relevant. Section 498 was amended by [S.I. 2008/393](#) and [2013/1970](#). Section 498A was inserted by [S.I. 2009/1581](#).

(10) [S.I. 2008/569](#).

(11) [S.I. 2009/2436](#), to which there are amendments not relevant to these Regulations.

- (e) sections 495 and 498 of the Act as applied to an auditor of a qualifying bank, and sections 503 to 506 of that Act as applied in relation to the auditor’s report for a qualifying bank, by the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008(12) (“qualifying bank” has the meaning given by regulation 3 of those Regulations),
- (f) sections 495 and 498 of the Act as applied to an auditor of an insurance undertaking and sections 503 to 506 of the Act as applied in relation to the auditor’s report for an insurance undertaking, by the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008(13) (“insurance undertaking” has the meaning given by regulation 2 of those Regulations),
- (g) sections 78 to 79 of the Building Societies Act 1986(14),
- (h) sections 73 to 74C of the Friendly Societies Act 1992(15), in relation to the audit of a friendly society to which the Audit Directive applies (“friendly society to which the Audit Directive applies” has the meaning given by section 78A(3)(16) of that Act),
- (i) regulations 3, 10 to 14 and 22 to 26 of the Insurance Accounts Directive (Lloyd’s Syndicate and Aggregate Accounts) Regulations 2008(17),
- (j) Articles 10 and 11 of the Audit Regulation;

“competent authority” means the Financial Reporting Council Limited(18);

“financial year” has the same meaning as in section 390 of the Act;

“group auditor” means the statutory auditor appointed to audit the consolidated accounts of a group and “group audit” shall be construed accordingly;

“network” means an association of persons other than a firm co-operating 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 name;

“personal data” has the same meaning as in section 1(1) of the Data Protection Act 1998(19);

“public interest entity” means—

- (a) an issuer whose transferable securities are admitted to trading on a regulated market,
- (b) a credit institution within the meaning given by Article 4(1)(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council(20), other than one listed in

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(12) S.I. 2008/567, amended by S.I. 2013/472.

(13) S.I. 2008/565, amended by S.I. 2013/472 and S.I. 2014/1815.

(14) 1986 c. 53. Section 78 was amended by paragraph 7 of Schedule 9 to the Financial Services (Banking Reform) Act 2013 (c. 33), and S.I. 1995/3233, 2004/3380 and 2008/1519. Section 78A was inserted by S.I. 2004/3380, and sections 78A to 78D were substituted for section 78 by S.I. 2008/1519. Sections 78C and 78D were amended by S.I. 2013/496. Section 79 was amended by paragraph 34 of Schedule 7 and Schedule 9 to the Building Society Act 1997 (c. 32), S.I. 2001/2617 and 2008/1519.

(15) 1992 c. 40. Section 73 was amended by S.I. 2001/2617, 2005/2211 and 2008/1140. Sections 74 to 74C were substituted for section 74 as originally enacted by S.I. 2008/1140. Sections 74B and 74C were amended by S.I. 2013/496.

(16) Section 78A was inserted by S.I. 2005/2211 and amended by S.I. 2008/948 and 2008/1140.

(17) S.I. 2008/1950, amended by S.I. 2013/472.

(18) A company registered in England and Wales with number 02486368.

(19) 1998 c. 29.

(20) OJ No. L 176 27.06.13, p. 1.

Article 2 of [Directive 2013/36/EU](#) of the European Parliament and of the Council on access to the activity of credit institutions and investment firms<sup>(21)</sup>, or

- (c) an insurance undertaking within the meaning given by Article 2(1) of Council Directive [1991/674/EEC](#) of the European Parliament and of the Council on the annual accounts and consolidated accounts of insurance undertakings<sup>(22)</sup>;

“issuer” and “regulated market” have the same meaning as in Part 6 of the Financial Services and Markets Act 2000<sup>(23)</sup>;

“recognised supervisory body” means a supervisory body, within the meaning in section 1217(1) of the Act, recognised in accordance with Schedule 10 of that Act (and “member”, in relation to a recognised supervisory body, has the meaning given by section 1217(2) of that Act);

“sanction” means any measure taken by the competent authority under regulation 5;

“transferable securities” means anything which is a transferrable security for the purposes of [Directive 2004/39/EC](#) of the European Parliament and of the Council on markets in financial instruments<sup>(24)</sup>.

## PART 2

### The Competent Authority

#### The competent authority

- 3.—(1) The competent authority is responsible for—
- (a) the public oversight of statutory auditors under these Regulations;
  - (b) carrying out the tasks provided for in the Audit Regulation and for ensuring that the provisions of that Regulation are applied;
  - (c) the determination of technical standards (which must meet the requirements of Schedule 1) and of other standards (which must meet the requirements of that Schedule) on professional ethics and internal quality control of statutory auditors and statutory audit work;
  - (d) the determination of the manner in which the standards determined under sub-paragraph (c) are to be applied in practice;
  - (e) the application of the standards determined under sub-paragraph (c) (including provision for securing compliance with those standards);
  - (f) the determination of criteria for the purpose of determining whether persons are eligible for appointment as statutory auditors;
  - (g) the application of the criteria determined under sub-paragraph (f) to determine whether persons are eligible for appointment as statutory auditors;
  - (h) registration of persons approved as eligible for appointment as statutory auditors under sub-paragraph (g);
  - (i) keeping the register and making it available for inspection;

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(21) OJ No. L 176 27.06.13., p.338.

(22) OJ No. L 374 31.12.91, p. 7.

(23) 2000 c. 8. See section 102A(6).

(24) OJ No. L 145 30.04.04, p. 1.

- (j) ensuring persons eligible for appointment as statutory auditors take part in appropriate programmes of continuing education in order to maintain their theoretical knowledge, professional skills and values at a sufficiently high level;
  - (k) monitoring (by means of inspections) of statutory auditors and audit work;
  - (l) investigations of statutory auditors and audit work; and
  - (m) imposing and enforcing sanctions.
- (2) The competent authority—
- (a) must consider whether and how tasks arising from its responsibility for the matters listed in sub-paragraphs (e) to (m) of paragraph (1) may be delegated to any recognised supervisory body; and
  - (b) subject to paragraph (5), may delegate such tasks to any recognised supervisory body.
- (3) In exercising its duty under paragraph (2)(a), the competent authority—
- (a) must consult the recognised supervisory bodies, and
  - (b) may consider the requirements of Schedule 10 to the Act (including the way in which recognised supervisory bodies discharge those requirements).
- (4) The competent authority may delegate tasks to any recognised supervisory body in accordance with paragraphs (6) and (7).
- (5) The competent authority may not delegate tasks related to any of the matters listed in Article 24(1) (a) to (c) of the Audit Regulation.
- (6) The competent authority must specify the tasks delegated (and may specify those tasks by reference to particular descriptions of activity for which the competent authority is responsible, particular descriptions of statutory auditor or particular descriptions of audited person) and any conditions under which those tasks are to be carried out (and may vary those conditions).
- (7) The competent authority may specify (including by reference to particular descriptions of activity for which the competent authority is responsible, particular descriptions of statutory auditor or particular descriptions of audited person) exceptions to any delegation.
- (8) The competent authority may reclaim tasks it has delegated, including those which relate to a particular description of activity for which the competent authority is responsible, particular description of statutory auditor or particular description of audited person.
- (9) When the competent authority has reclaimed a task from a recognised supervisory body ('A') and delegated that task to another recognised supervisory body ('B'), section 1224ZA of the Act (as inserted by paragraph 33 of Schedule 3 to these Regulations) has effect so that the competent authority's power to call for information from A applies so that the competent authority may require A to provide such information as the competent authority considers that B reasonably requires for the performance of the task.
- (10) The competent authority must make such arrangements as it considers necessary in relation to any of the matters for which it is responsible under this regulation, including arrangements for the performance by the competent authority of any task arising from its responsibility for those matters in the following circumstances—
- (a) where the competent authority does not delegate a task to a recognised supervisory body;
  - (b) where the competent authority reclaims a task from a recognised supervisory body;
  - (c) where the recognition order in relation to a recognised supervisory body is revoked under paragraph 3 of Schedule 10 to the Act.
- (11) An obligation which a statutory auditor has by virtue of any rules which a recognised supervisory body is required to have under Part 2 of Schedule 10 to the Act is an obligation which the statutory auditor owes to the competent authority including—

- (a) where the competent authority reclaims a task from that recognised supervisory body, to the extent that the obligation arises from the competent authority having delegated that task to the body; or
- (b) where the recognition order in relation to that recognised supervisory body is revoked under paragraph 3 of Schedule 10 to the Act, to any extent.

(12) The Secretary of State may give directions to the competent authority in connection with the delegation of tasks to the recognised supervisory bodies.

(13) Schedule 1 (which prescribes requirements for the standards the competent authority must determine in relation to the obligations of statutory auditors in relation to professional ethics, independence, objectivity and confidentiality) has effect.

### **General requirements of auditors**

4.—(1) A person appointed to conduct a statutory audit must conduct that audit in accordance with the relevant standards for the conduct of statutory audits.

(2) The relevant standards are—

- (a) the standards of integrity, objectivity, professional competence, due care and professional scepticism as determined by the competent authority in accordance with Schedule 1;
- (b) the international auditing standards adopted by the European Commission in accordance with Article 26(3) of the Audit Directive (“Commission-adopted international standards”);
- (c) any auditing standards, procedures or requirements imposed by the competent authority in accordance with paragraph (3)(a);
- (d) auditing procedures or requirements imposed by the competent authority in accordance with paragraph (3)(b); and
- (e) the requirements of rules and practices of the recognised supervisory body of which the auditor is a member, provided that the rules and practices are rules and practices required by virtue of Part 2 of Schedule 10 to the Act.

(3) The competent authority may—

- (a) impose auditing standards, procedures or requirements which do not cover the same subject-matter as Commission adopted international standards; or
- (b) impose auditing procedures or requirements which cover the same subject-matter as Commission-adopted international standards but are necessary—
  - (i) to give effect to any relevant requirement relating to the scope of statutory audit; or
  - (ii) to add to the credibility and quality of financial statements.

(4) In this regulation “relevant requirement” has the same meaning as in regulation 5.

### **The competent authority: sanctioning powers**

5.—(1) If the competent authority considers that a person (“A”) has contravened a relevant requirement, it may—

- (a) give a notice requiring A to cease the conduct giving rise to the contravention and to abstain from any repetition of that conduct,
- (b) publish a statement (which may take the form of a reprimand or severe reprimand) to that effect,
- (c) make an order prohibiting A permanently or for a specified period from carrying out statutory audits or signing audit reports,
- (d) in a case where an audit report by A does not satisfy—

- (i) the audit reporting requirements, or
- (ii) the requirement in regulation 4(1),

make a declaration to that effect, and, where appropriate, order A to forego fees payable to A in connection with the carrying out of the statutory audit or to repay such fees,

- (e) make an order prohibiting A for a specified period of up to three years from being a member of the management body of a firm that is eligible for appointment as a statutory auditor,
- (f) make an order prohibiting A for a specified period of up to three years from acting as a director of or being otherwise concerned in the management of a public interest entity,
- (g) impose on A a financial penalty of such amount as the competent authority considers appropriate,
- (h) make an order requiring A to take such action as the competent authority considers will mitigate the effect or prevent the recurrence of the contravention,
- (i) make an order excluding A from membership of one or more recognised supervisory bodies.

(2) The competent authority may only exercise the powers under paragraph (1) if A is eligible for appointment as a statutory auditor (or was so eligible at the time of the contravention).

(3) In determining the type and level of sanctions to be imposed under this regulation, the competent authority must take into account all relevant circumstances, including—

- (a) the gravity and duration of the contravention;
- (b) A's degree of responsibility;
- (c) A's financial strength;
- (d) the amount, so far as can be determined, of profits gained or losses avoided by A;
- (e) the extent to which A has co-operated with the competent authority;
- (f) any previous contravention by A of a relevant requirement.

(4) For the purpose of paragraph (3)(c), A's financial strength may be determined in such manner as the competent authority considers appropriate, including—

- (a) where A is a firm by reference to A's total turnover; or
- (b) where A is an individual by reference to A's annual income.

(5) The competent authority may make an order (“a costs order”) requiring A to pay the costs reasonably incurred by the competent authority in determining whether A has contravened the requirement, including—

- (a) its administrative costs;
- (b) its costs of obtaining legal advice; and
- (c) any costs incurred in considering any appeal by A.

(6) Where a recognised supervisory body has paid any part of the costs incurred by the competent authority, a costs order may include those costs and the competent authority must reimburse those costs to the recognised supervisory body.

(7) Any other sums received by the competent authority in payment of its costs or in payment of a financial penalty must be paid to the Secretary of State.

(8) Where the competent authority imposes a financial penalty on A or makes a costs order applying to A—

- (a) it must specify a date by which the penalty is or the costs are required to be paid; and



(b) that date must be—

- (i) in the case of a financial penalty, at least 28 days after the date on which the competent authority imposed the financial penalty, or
- (ii) in the case of a costs order, at least 28 days after the date on which the competent authority made the costs order.

(9) The competent authority may not exercise the powers under this regulation if and to the extent that it has delegated a task under regulation 3 which arises from its responsibilities under regulation 3(1)(m).

(10) The competent authority must provide for an appeal against any decisions it makes under this regulation to be considered by an independent tribunal.

(11) In this regulation—

a “relevant requirement” means a requirement with which A must comply under—

- (a) these Regulations (including the requirement under regulation 4(1)),
- (b) the Audit Regulation,
- (c) Parts 16 or 42 of the Act,
- (d) Parts 10 to 12 of the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008(25),
- (e) Parts 2 and 3 of, or the Schedule to, the Partnerships (Accounts) Regulations 2008(26),
- (f) Regulation 3 of, or Schedule 1 to, the Unregistered Companies Regulations 2009(27),
- (g) Parts 2 and 3 of, or the Schedule to, the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008(28),
- (h) Parts 2 and 3 of, or Schedule 1 and 2 to, the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008(29),
- (i) Part 8 of, or Schedule 11 to, the Building Societies Act 1986(30), or of any subordinate legislation made under that Part or that Schedule,
- (j) Part 6 of, or Schedule 14 to, the Friendly Societies Act 1992(31), or of any subordinate legislation made under that Part of that Schedule, in so far as those provisions apply to an insurance undertaking within the meaning given by Article 2.1 of Council Directive 1991/674/EEC on the annual accounts and consolidated accounts of insurance undertakings(32),
- (k) Parts 2 and 3 of, or Schedules 1 and 3 to, the Insurance Accounts Directive (Lloyd’s Syndicates and Aggregate Accounts) Regulations 2008(33), and
- (l) a standard set under the arrangements required by Schedule 10 to the Act, where those paragraphs continue to apply by virtue of regulation 1 of these Regulations,

“subordinate legislation” means legislation made by way of statutory instrument, and

“turnover”, in relation to a firm, means the amounts derived from the provision of goods and services within the United Kingdom, after deduction of—

- (a) trade discounts,

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(25) [S.I. 2008/1911](#).

(26) [S.I. 2008/569](#).

(27) [S.I. 2009/2436](#).

(28) [S.I. 2008/567](#).

(29) [S.I. 2008/565](#).

(30) 1986 c. 53.

(31) 1992 c. 40.

(32) OJ No. L 374 31.12.91, p. 7.

(33) [S.I. 2008/1950](#).

- (b) value added tax, and
- (c) any other taxes based on the amounts so derived.

### **Publication of sanctions and measures**

6.—(1) The competent authority shall publish, in accordance with paragraphs (2) to (5) details of the sanctions it imposes under regulation 5.

- (2) The details published under paragraph (1) must include—
  - (a) information concerning the type of contravention and its nature;
  - (b) unless any of the circumstances mentioned in paragraph (3) applies, the identity of the person (“A”) sanctioned under regulation 5; and
  - (c) where a sanction is subject to an appeal, information concerning the status and outcome of the appeal.
- (3) The circumstances in which A’s identity must not be published are—
  - (a) where A is an individual and the competent authority considers the publication of personal data would be disproportionate;
  - (b) where publication would jeopardise the stability of financial markets;
  - (c) where publication would jeopardise an ongoing criminal investigation; and
  - (d) where publication would cause disproportionate damage to any institution or individual involved.
- (4) The competent authority shall ensure that—
  - (a) information published under this regulation remains published for a proportionate period, and
  - (b) is available on the competent authority’s website for at least five years after the relevant date.
- (5) In this regulation and in regulations 7 and 8, “the relevant date” means—
  - (a) where the competent authority imposes a sanction and that decision is appealed, the date on which the appeal is determined,
  - (b) where the competent authority imposes a sanction and that decision is not appealed, the date by which the appeal should have been lodged.

### **Enforcement of sanctions**

- 7.—(1) This regulation applies if—
- (a) the competent authority has imposed a sanction under sub-paragraph (a), (c), (d) (insofar as it relates to an order to forego or repay fees), (e), (f), (g) or (h) of regulation 5(1) or made a costs order under regulation 5(5); and
  - (b) the person on whom the sanction or costs order was imposed—
    - (i) has not by the relevant date appealed against the decision, or
    - (ii) has appealed against the decision, but the appeal was unsuccessful or has been withdrawn.
- (2) If on an application by the competent authority the court decides that a person has not complied with a sanction or costs order to which this regulation applies, the court may order that person to take such steps as the court considers will secure compliance with the sanction or costs order.
- (3) In this regulation, “the court” means the High Court or, in Scotland, the Court of Session.

### Recovery of financial penalties

8.—(1) If the whole or any part of a financial penalty or costs order is not paid by the time by which it is required to be paid, the unpaid balance from time to time carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838<sup>(34)</sup>.

(2) Where a financial penalty or costs order, or any part of a financial penalty or costs order, has not been paid by the time when it is required to be paid and—

- (a) no appeal has been made in respect of that penalty or costs order by the relevant date; or
- (b) an appeal has been made in respect of that penalty or costs order, but has been determined or withdrawn,
- (c) the competent authority may recover from the person on whom the penalty or costs order was imposed, as a debt due to the competent authority, any of the penalty or costs order and any of the interest which has not been paid.

### Monitoring of audits by the competent authority

9.—(1) The competent authority must monitor the conduct of statutory audit work relating to public interest entities by means of a system of inspections that satisfies the requirements of Article 26 of the Audit Regulation.

(2) The competent authority must monitor the conduct of statutory audit work which does not relate to public interest entities in accordance with paragraphs (4) to (12).

(3) Paragraph (2) does not apply to the extent that the competent authority has delegated this task under regulation 3.

(4) The competent authority must have adequate arrangements for monitoring the conduct of statutory audit work and must ensure those arrangements operate independently of the persons monitored.

(5) The competent authority must have adequate resources for effectively monitoring the conduct of statutory audit work and ensure those resources may not be influenced improperly by the persons monitored.

(6) Monitoring the conduct of statutory audit work must be carried out by means of inspections which are 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 and EEA State, other than the United Kingdom;
- (c) have received adequate training in the conduct of inspections;
- (d) have declared that they do not have any interests likely to conflict with the proper conduct of the inspection;
- (e) have not been an employee or partner or member of the management body of the person subject to inspection and have not been otherwise associated with that person for at least three years.

(7) An inspection must—

- (a) review one or more statutory audits in which the person to whom the inspection relates has participated;

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<sup>(34)</sup> 1838 c. 110, amended by S.I. 1993/564 and S.I. 1998/2940.

- (b) in relation to the person to whom the inspection relates, include an assessment of—
    - (i) that person’s compliance with the standards set by the competent authority under these Regulations;
    - (ii) the resources allocated by that person to statutory audit work;
    - (iii) if that person is a firm, its internal quality control system;
    - (iv) the remuneration received by that person in respect of statutory audit work; and
  - (c) be appropriate and proportionate in view of the scale and complexity of the statutory audit work of the person subject to inspection.
- (8) 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.
- (9) 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 competent authority.
- (10) An inspection must be carried out in relation to each person eligible for appointment as a statutory auditor—
- (a) at such frequency as the competent authority considers appropriate given the risks arising from the statutory audit work undertaken by the person; and
  - (b) at least once every six years in the case of a person who, during any of the previous five years, has carried out a statutory audit of an audited person not subject to the small companies regime (within the meaning in section 381 of the Act).
- (11) The competent authority must, at least once every calendar year, publish a report containing a summary of the results of inspections conducted under this regulation (and must publish this report at the same time that it publishes the information it is required to publish under Article 28(d) of the Audit Regulation).
- (12) In relation to inspections of statutory audits of undertakings that qualify as small (by virtue of section 382 or 383 of the Act) or medium-sized (by virtue of section 465 or 466 of that Act), the competent authority must take account of the fact that the standards it has adopted under these Regulations are designed to be applied in a manner that is proportionate to the scale and complexity of the business of the audited person.

### **Investigation powers**

10. Schedule 2 (investigation powers) has effect.

### **Performance, monitoring and enforcement of third country audit functions**

- 11.—(1) Regulations 4 to 9 and Schedule 2 apply in relation to—
- (a) the performance of third country audit functions by persons who are eligible for appointment as statutory auditors,
  - (b) the monitoring by the competent authority of the performance of third country audit functions by persons who are eligible for appointment as statutory auditors, and
  - (c) the imposition of sanctions by the competent authority in relation to the performance of third country audit functions by persons who are eligible for appointment as statutory auditors,

as they apply to the conduct of statutory audit work, the monitoring of that work and the imposition of sanctions in relation to that work, subject to the modifications set out in paragraphs (3) to (6).

(2) Paragraph (1) does not apply in respect of monitoring of the performance of third country audit functions—

(a) for an audited entity which—

- (i) is incorporated in a third country that has been determined by the European Commission as having an equivalent system of audit inspections, investigations and sanctions to that in the European Union under Article 46 of the Audit Directive, or
- (ii) is incorporated in a third country that is the subject of transitional arrangements by the European Commission in respect of its system of audit inspections, investigations and sanctions under Article 46 of the Audit Directive; or

(b) by a statutory auditor—

- (i) who is also an EEA auditor, and
- (ii) whose performance of third country audit functions is subject to the systems of public oversight, quality assurance and investigations and sanctions of the EEA competent authority that approved the EEA auditor in accordance with the Audit Directive.

(3) Regulations 4 to 9 and Schedule 2 apply but as if—

(a) for any cross-references to provisions within those regulations, there were substituted references to those provisions as they apply by virtue of this regulation; and

(b) for references to—

- (i) “conduct of statutory audit work” or “conduct of a statutory audit” there were substituted references to “performance of third country audit functions”, except in regulation 5(1)(c),
- (ii) “statutory auditors”, except in regulation 5(1)(e), or “persons appointed to conduct a statutory audit” there were substituted references to “a person who is eligible for appointment as a statutory auditor and who is appointed to perform third country audit functions”,

and related expressions are to be construed accordingly.

(4) Regulation 4 applies but as if for paragraphs to (2) to (4) there were substituted—

“(2) The relevant standards are—

- (a) the international auditing standards adopted by the European Commission in accordance with Article 26(3) of the Audit Directive, or standards which are equivalent,
- (b) any auditing standards, procedures or requirements imposed by the competent authority in relation to the conduct of statutory audit which do not cover the same subject-matter as the standards referred to in paragraph (a) or standards, procedures or requirements which are equivalent, and
- (c) the requirements set out in Articles 22, 22b and 25 of the Audit Directive (independence, objectivity and audit fees), or requirements which are equivalent.

(3) The person who is eligible for appointment as a statutory auditor who is appointed to perform third country audit functions must, if not already required to do so by reason of carrying out statutory audits of public interest entities, publish on a website an annual transparency report equivalent to that required for auditors of public interest entities by Article 13 of the Audit Regulation (transparency report).”.

(5) Regulation 5 applies but as if—

(a) paragraph (9) were omitted;

- (b) for the definition of a “relevant requirement” in paragraph (11) were substituted—
  - “a “relevant requirement” means a requirement with which A must comply under—
  - (a) these Regulations (including the requirement under regulation 4(1)), or
  - (b) the Audit Regulation;”; and
- (c) the definition of “subordinate legislation” in paragraph (11) were omitted.
- (6) Regulation 9 applies but as if—
  - (a) for paragraph (1) were substituted—
    - “(1) The competent authority must monitor the performance of third country audit functions by persons eligible for appointment as statutory auditors, and may do so by means of a system of inspections.”;
  - (b) in paragraph (2)—
    - (i) the words “which does not relate to public interest entities” were omitted, and
    - (ii) for “(4) to (12)” were substituted “(4) to (11)”;
  - (c) paragraph (3) were omitted;
  - (d) in paragraph (6), sub-paragraph (b) were omitted;
  - (e) in paragraph (10)—
    - (i) after “statutory auditor” were inserted “in respect of their performance of third country audit functions”; and
    - (ii) sub-paragraph (b) were omitted;
  - (f) paragraph (12) were omitted.
- (7) Schedule 2 applies but as if—
  - (a) in paragraph 1, sub-paragraphs (3) and (4) were omitted; and
  - (b) paragraph 4 were omitted.
- (8) In this regulation, “third country audit function” means any function related to the audit of a UK-traded non-EEA company or of an equivalent body corporate whose transferable securities are admitted to trading on a regulated market situated or operating in another EEA state.

## PART 3

### Restrictions on choice of Auditor

#### **Contractual terms restricting choice of auditor**

**12.**—(1) This regulation applies to any term in a contract which, in relation to the conduct of a statutory audit of an audited person, has the effect of restricting the audited person’s choice of statutory auditor to certain categories or lists of statutory auditors.

(2) A term to which this regulation applies shall have no effect.

(3) Paragraph (2) does not apply where the audited person is a public interest entity.

## PART 4

### Miscellaneous

#### **Power to grant exemptions from the requirements of Article 4(2) of the Audit Regulation (limit on total fees charged for non-audit services)**

**13.**—(1) The competent authority may grant to a statutory auditor, in relation to the provision of services to an audited person, an exemption from the requirements of Article 4(2) of the Audit Regulation.

(2) The competent authority must be satisfied that exceptional circumstances exist before granting an exemption under this regulation.

(3) An exemption granted under this regulation may apply—

- (a) for one financial year, or
- (b) for two consecutive financial years.

#### **Amendment to the Partnerships (Accounts) Regulations 2008**

**14.**—(1) The Partnerships (Accounts) Regulations 2008 are amended as follows.

(2) In regulation 9 (functions of auditor), after paragraph (1)(a) insert—

“(aa) section 496 (auditor’s report on strategic report and director’s report);”.

#### **Amendments to the Companies Act 2006**

**15.** Schedule 3 has effect.

#### **Amendments to the Building Societies Act 1986**

**16.** Schedule 4 has effect.

#### **Amendments to other enactments**

**17.** Schedule 5 has effect.

#### **Amendment of the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008**

**18.**—(1) The Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008(35) are amended as follows.

(2) In regulation 4 (disclosure of remuneration: small and medium-sized companies)—

- (a) in paragraph (1), omit “small or”; and
- (b) omit paragraph (4).

(3) In regulation 6 (group accounts), for sub-paragraph (2)(b) substitute—

- “(b) a subsidiary company where—
  - (i) its parent is required to prepare and does prepare group accounts in accordance with the Act,
  - (ii) the company is included in the consolidation, and

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(35) [S.I. 2008/489](#). There are no relevant amending instruments.

(iii) the statutory auditor is the same for both the company and its parent;”.

### **Amendments to the Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012**

**19.**—(1) The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012<sup>(36)</sup> is amended as follows.

(2) After article 7(5) (transfer of functions) insert—

“(6) In this article—

- (a) the reference in paragraph (1) to the functions of the Secretary of State under Part 42 of the Companies Act 2006 includes a reference to functions which have been amended by the Statutory Auditors and Third Country Auditors Regulations 2016; and
- (b) references to provisions of the Companies Act 2006 in paragraphs (2) to (5) include amendments made to those provisions by the Statutory Auditors and Third Country Auditors Regulations 2016.”.

### **Amendment of the Statutory Auditors and Third Country Auditors Regulations 2013**

**20.**—(1) The Statutory Auditors and Third Country Auditors Regulations 2013<sup>(37)</sup> are amended as follows.

(2) In regulation 8 (application statement)—

(a) for paragraph (d) substitute—

“(d) the third country auditor conducts audits of UK-traded non-EEA companies in accordance with—

- (i) the international auditing standards adopted by the European Commission in accordance with Article 26(3) of the Audit Directive, or with standards which are equivalent,
- (ii) any auditing standards, procedures or requirements imposed by the competent authority in accordance with regulation 4(3)(a) of the Statutory Auditors and Third Country Auditors Regulations 2016, or with standards, procedures or requirements which are equivalent, and
- (iii) the requirements set out in Articles 22, 22b and 25 of the Audit Directive (independence, objectivity and audit fees), or with requirements which are equivalent;”;

(b) omit paragraph (e); and

(c) in paragraph (f) for “Article 40 of the Audit Directive” substitute “Article 13 of the Audit Regulation”.

(3) Omit regulation 13.

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

**21.**—(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 Act.

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<sup>(36)</sup> S.I. 2102/1741.

<sup>(37)</sup> S.I. 2013/1672.



(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 an equivalent amount, in the case of securities admitted to trading on a regulated market before 31st December 2010,
- (b) 100,000 euros or an equivalent amount, in the case of securities admitted to trading on a regulated market on or after 31st December 2010.

(3) In paragraph (2)—

“an equivalent amount” means an amount of a currency other than euros which at the date the security was issued was equivalent to the relevant amount of euros; and

“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 2001/43/EC](#).

(4) Regulation 43 of the Statutory Auditors and Third Country Auditors Regulations 2007<sup>(38)</sup> is revoked.

#### **Amendment of the Companies Act (Transfer of Audit Working Papers to Third Countries) Regulations 2010**

**22.**—(1) The Companies Act 2006 (Transfer of Audit Working Papers to Third Countries) Regulations 2010<sup>(39)</sup> are amended as follows.

(2) Omit—

- (a) regulation 1(3); and
- (b) regulation 4.

#### **Amendment to the Companies (Bodies Concerned with Auditing Standards etc.) (Exemption from Liability) Regulations 2016**

**23.**—(1) The Companies (Bodies Concerned with Auditing Standards etc.) (Exemption from Liability) Regulations 2016<sup>(40)</sup> are amended as follows.

(2) In regulation 2, in paragraph (2), after “(2)(a) to (d)” insert “, (ea)”.

#### **Review**

**24.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of the provisions of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) The report must, in particular—

- (a) set out the objectives intended to be achieved by those provisions,
- (b) assess the extent to which those objectives are achieved,
- (c) assess whether those objectives remain appropriate, and

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<sup>(38)</sup> [S.I. 2007/3494](#).

<sup>(39)</sup> [S.I. 2010/2537](#), amended by [S.I. 2013/1672](#).

<sup>(40)</sup> [S.I. 2016/571](#).

- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (3) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Audit Directive is implemented in other member states.
- (4) The first report under this regulation must be published before the end of the period of five years beginning with the date on which these Regulations come into force.
- (5) Subsequent reports under this regulation must be published at intervals not exceeding five years.
- (6) In this regulation, “regulatory provision” has the meaning given by section 32(4) of the Small Business, Enterprise and Employment Act 2015(41).

Date

*Name*  
Parliamentary Under Secretary of State for  
Business, Innovation and Skills  
Department for Business, Innovation and Skills

## SCHEDULE 1

Regulation 3(13)

### Requirements for professional ethics, independence, objectivity, confidentiality, auditing standards and audit reporting

#### 1. In this Schedule—

“A” means a person appointed as a statutory auditor,

“key audit partner” means—

- (a) the statutory auditor designated by an audit firm for a particular audit engagement as being primarily responsible for carrying out the statutory audit on behalf of the audit firm; or
- (b) in the case of a group audit, the statutory auditor designated by an audit firm as being primarily responsible for carrying out the statutory audit at the level of the group and the statutory auditor designated at the level of material subsidiaries; or
- (c) the statutory auditor who signs the audit report,

“relevant requirement” has the same meaning as in regulation 5.

#### 2.—(1) Standards must ensure that—

- (a) A is subject to principles of professional ethics, covering at least A’s public-interest function, A’s integrity and objectivity and A’s professional competence and due care;
- (b) in carrying out statutory audit work, A—

- (i) maintains professional scepticism throughout the audit;
- (ii) maintains professional scepticism in particular when reviewing management estimates relating to fair values, the impairment of assets, provisions and future cash flow relevant to the audited person’s ability to continue as a going concern;
- (iii) recognises the possibility of a material misstatement due to facts or behaviour indicating irregularities, including fraud or error,

notwithstanding A’s past experience of honesty and integrity on the part of the audited person’s management and of the persons charged with the governance of the audited person.

(2) In this paragraph “professional scepticism” means an attitude that includes a questioning mind, being alert to conditions which may indicate possible misstatement due to error or fraud and a critical assessment of audit evidence.

(3) Standards must ensure that, during the relevant period A and any other individual in a position to influence the outcome of the statutory audit is independent of the audited person and not involved in the decision-taking of the audited person.

(4) In this paragraph “the relevant period” means—

- (a) the period covered by the financial statements to be audited; and
- (b) the period during which the statutory audit is carried out.

3.—(1) Standards must ensure that A takes all reasonable steps to ensure that, in carrying out statutory audit work, A’s independence is not affected by—

- (a) any existing or potential conflict of interest; or
- (b) any business or other direct or indirect relationship with A or a person having a relevant connection with A.

(2) For the purposes of this paragraph a person has a relevant connection with A if that person—

- (a) is a member of A's network;
- (b) is a manager, auditor, employee or other individual whose services are placed at A's disposal or under A's control; or
- (c) is directly or indirectly linked to A by control.

(3) Standards must ensure that A records in the audit working papers all significant threats to A's independence and the safeguards applied to mitigate those threats.

(4) In this paragraph "audit working papers" means any documents which are or have been held by A and are related to the conduct of the audit.

**4.—**(1) Standards must ensure that A does not accept appointment as a statutory auditor (or, if already appointed, resigns from such an appointment) if there is any qualifying threat created by financial, personal business employment or other relationships between the audited person and—

- (a) A,
- (b) any member of A's network, or
- (c) any individual in a position to influence the outcome of the statutory audit.

(2) In this paragraph "qualifying threat" means a threat of self-review, self-interest, advocacy, familiarity or intimidation which would cause an objective, reasonable and informed third party, taking into account any safeguards applied, to conclude that A's independence is compromised.

**5.—**(1) Standards must ensure that—

- (a) none of the persons mentioned in sub-paragraph (2), and
- (b) no trust whose managerial responsibilities are discharged by, or which is directly or indirectly controlled by, or which is set up for the benefit of, or whose economic interests are substantially equivalent to those of any person mentioned in paragraphs (a), (b) or (c) of that sub-paragraph,

holds or has a material and direct beneficial interest in, or engages in any transaction in any financial instrument issued, guaranteed or otherwise supported by any audited person within (in the case of a person mentioned in sub-paragraph (2)(a)) the area of statutory audit work in which that person is directly involved or (in the case of a person mentioned in sub-paragraph (2)(b), (c) or (d)) the area of statutory audit work in which the person mentioned in sub-paragraph (a) to whom they have the connection described in sub-paragraph (2)(b), (c) or (d) as the case may be is involved.

(2) This sub-paragraph applies to—

- (a) A, a key audit partner of A, an employee of A or any other individual—
  - (i) whose services are placed at A's disposal or under A's control, and
  - (ii) who is directly involved in statutory audit work;
- (b) a person who is the spouse, civil partner or dependent child of any person mentioned in paragraph (a);
- (c) any other relative of any person mentioned in paragraph (a) who (at any time in the period from the start of the financial year in respect of which the audit is being carried out to the date on which the audit report is signed) has lived in the same household as that person for at least one year;
- (d) a firm whose managerial responsibilities are discharged by, or which is directly or indirectly controlled by, any person mentioned in paragraphs (a), (b) or (c) or in which any such person has a beneficial or other substantially equivalent economic interest.

(3) Sub-paragraph (1) does not prevent the owning of interests indirectly through diversified collective investment schemes, including managed funds, such as pensions or life insurance.

- (4) Standards must ensure that none of the persons mentioned in sub-paragraph (2), who—
- (a) owns financial instruments (except for interests of the kind mentioned in sub-paragraph (3)) of the audited person,
  - (b) owns financial instruments (except for interests of the kind mentioned in sub-paragraph (3)) of any person related to the audited person, in circumstances where owning those instruments may cause, or may be generally perceived as causing, a conflict of interest, or
  - (c) has a business or employment relationship with the audited person within the relevant period in circumstances that may cause, or may be generally perceived as causing, a conflict of interest,

participates in or otherwise influences the outcome of the statutory audit.

- (5) In sub-paragraph (4), “the relevant period” has the same meaning as in paragraph 2(4).

(6) Standards must ensure A and any person mentioned in sub-paragraph (2) does not solicit or accept pecuniary or non-pecuniary gifts or favours from the audited person or from any person related to the audited person,

(7) In sub-paragraph (6) “pecuniary or non-pecuniary gifts” does not include gifts whose value an objective, reasonable and informed person would consider trivial or inconsequential.

6. Standards must ensure that if, during the period covered by the financial statements to be audited, the audited person is acquired by, merges with or acquires another person, A shall—

- (a) identify and evaluate any current or recent interests or relationships which could compromise A’s independence and ability to continue carrying out the statutory audit after the effective date of the merger or acquisition, and
- (b) as soon as possible, and in any event within three months—
  - (i) take such steps as may be necessary to terminate any current interests or relationships which would compromise A’s independence, and
  - (ii) where possible, adopt safeguards that minimise any threats to A’s independence arising from prior and current interests and relationships.

7.—(1) Standards must ensure that—

- (a) where A is an individual, A, and
- (b) where A is a firm, A’s key audit partner,

does not take up a relevant position with the audited person before the end of the cooling off period.

(2) Standards must also ensure that no person having a relevant connection with A takes up a relevant position with the audited person within one year of having been directly involved in the statutory audit of the audited person.

(3) In this paragraph—

“cooling off period” means—

- (a) in the case of a public interest entity, two years, and
- (b) in any other case, one year,

beginning with the day on which A ceased to be the audited person’s statutory auditor or (if A is a firm), A’s key audit partner ceased to be the key audit partner in connection with the statutory audit of the audited person;

“person having a relevant connection with A” means a person eligible for appointment as a statutory auditor, who is—

- (a) a partner (apart from a key audit partner) or employee of A, or

(b) any individual whose services are placed at A's disposal or under A's control;

“relevant position” means—

- (a) any key management position,
- (b) membership of the audited person's audit committee,
- (c) membership of any body performing equivalent functions to an audit committee in relation to the audited person,
- (d) any other position as director of the audited person or, where the audited person's affairs are managed by a management body or other committee, membership of that management body or committee.

**8.—(1)** Standards must ensure that, before accepting an appointment as a statutory auditor, A assesses and records—

- (a) whether A is complying with the requirements of paragraphs 1 to 7 of this Schedule;
- (b) whether there are any threats to A's independence and the safeguards applied to mitigate those threats;
- (c) whether A has such competent employees, time and resources as are needed to carry out the statutory audit in an appropriate manner;
- (d) where A is a firm, whether the key audit partner is approved as a statutory auditor in the Member State where the statutory audit is required to be carried out.

(2) Standards ensuring the matters mentioned in this paragraph may apply simplified requirements in relation to the statutory audit of companies to which the small companies regime applies under section 381 of the Act.

**9.—(1)** Standards must ensure adequate provision on confidentiality in relation to all information and documents to which A has access when carrying out a statutory audit, but such rules must not impede the enforcement of obligations under—

- (a) these Regulations,
- (b) the Audit Regulation, or
- (c) Parts 16 and 42 of the Act.

(2) Standards ensuring the matters mentioned in sub-paragraph (1) must not prevent A from transferring relevant documents concerning the statutory audit to an auditor of the consolidated accounts of a parent undertaking in a third country where such documents are necessary for auditing the accounts of that undertaking.

(3) Standards must ensure that, where A ceases to hold office as statutory auditor, A provides A's successor as statutory auditor with access to all relevant information concerning the audited person, including information concerning the most recent audit.

(4) Standards ensuring the matters mentioned in sub-paragraph (1)—

- (a) must apply to A in respect of an audit engagement after A has ceased that engagement, and
- (b) must apply to A if he ceases to be eligible for appointment as a statutory auditor.

(5) Standards must ensure that 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.

(6) Standards must ensure that no firm is eligible 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.

**10.—(1)** Standards must ensure that A—

- (a) has appropriate policies and procedures to ensure that no partner, director, member or shareholder of A or partner, director, member or shareholder of any affiliate of A intervenes in the carrying out of statutory audit work in any way which jeopardises A's independence and objectivity in carrying out such work;
- (b) has sound administrative and accounting procedures, internal quality control mechanisms (which are designed to secure compliance with decisions and procedures at all levels of A's working structure), effective procedures for risk assessment and effective control and safeguard arrangements for information processing systems;
- (c) has appropriate policies and procedures to ensure that A's employees and any other individuals, whose services are placed at A's disposal or under A's control and who are directly involved in statutory audit activities, have appropriate knowledge and experience for the duties assigned;
- (d) has appropriate policies and procedures to ensure that outsourcing of important audit functions is not undertaken in such a way as to impair the quality of A's internal quality control and the ability of the competent authority to supervise A's compliance with relevant requirements;
- (e) has appropriate and effective organisational and administrative arrangements to prevent, identify, eliminate or manage and disclose any threats to their independence as referred to in paragraphs 2(3) and 3 to 8;
- (f) has appropriate policies and procedures for carrying out statutory audits, coaching, supervising and reviewing the activities of A's employees and organising the structure of the audit file as referred to in paragraph 12(1)(f);
- (g) establishes an internal quality control system to ensure the quality of a statutory audit, which—
  - (i) covers at least the policies and procedures mentioned in paragraph (f); and
  - (ii) in the case of a firm, ensures that responsibility for the system lies with an individual who either holds an appropriate qualification or holds a corresponding qualification to audit accounts under the law of an EEA State, or part of an EEA State, other than the United Kingdom;
- (h) uses appropriate systems, resources and procedures to ensure continuity and regularity in carrying out A's statutory audit work;
- (i) has appropriate and effective organisational and administrative arrangements for dealing with and recording incidents which have, or may have, serious consequences, for integrity of A's statutory audit work;
- (j) has in place adequate remuneration policies, including profit-sharing policies, providing sufficient performance incentives to secure audit quality (including provision that the amount of revenue that A derives from services other than statutory audit services must not form part of the performance evaluation and remuneration of any person involved in, or able to influence the carrying out of, the audit);
- (k) monitors and evaluates the adequacy and effectiveness of A's systems, internal quality control mechanisms and arrangements established in accordance with these Regulations, the Audit Regulation or Parts 16 or 42 of the Act and takes appropriate measures to address any deficiencies;
- (l) carries out an annual evaluation of the internal quality control system referred to in sub-paragraph (1)(g), keeps records of the findings of that evaluation and any proposed measure to modify the internal quality control system;

- (m) documents and communicates to A's employees (and where A is a firm, communicates to A's partners or members) the policies and procedures referred to in this sub-paragraph;
- (n) takes into consideration the scale and complexity of A's activities when complying with the requirements mentioned in this paragraph and is able to demonstrate to the competent authority that its policies and procedures are appropriate given the scale and complexity of those activities.

(2) The requirements of standards mentioned in sub-paragraph (1) may be simplified in relation to the statutory audit of companies which are exempt from the requirements of the Act relating to audit by virtue of section 477 of the Act.

(3) In this paragraph "affiliate", in relation to A, means any undertaking, regardless of its legal form, which is connected to A by means of common ownership, control or management.

**11.—**(1) Standards must ensure that, when A is a firm, A—

- (a) designates at least one key audit partner, and
- (b) applies as its main criteria in selecting a key audit partner—
  - (i) the need to secure the quality of the audit,
  - (ii) the need to secure A's independence and competence in carrying out the audit,
- (c) ensures the key audit partner is actively involved in carrying out the audit,
- (d) provides any key audit partner with sufficient resources and with personnel that have the necessary competence and capabilities to carry out their duties appropriately.

(2) Standards must ensure that A devotes sufficient time to the engagement and assigns sufficient resources to enable A to carry out A's duties appropriately.

**12.—**(1) Standards must ensure that A—

- (a) keeps records of any breaches (other than breaches which A reasonably considers to be minor breaches) of any relevant requirement;
- (b) keeps records of any consequences of any breach recorded in accordance with paragraph 12(1)(a), the measures taken to address such a breach and to modify A's internal quality control system;
- (c) prepares an annual report containing an overview of any measures taken under paragraph (b) and communicates that report internally;
- (d) documents any request for advice from an external expert, together with the advice received;
- (e) maintains a client account record, which includes in respect of every statutory audit—
  - (i) the audited person's name, address and place of business,
  - (ii) when the statutory auditor is a firm, the name of the key audit partner or, where there is more than one key audit partner, the names of all the key audit partners,
  - (iii) the fees charged for carrying out the statutory audit and for other services in any financial year;
- (f) creates an audit file for each statutory audit, which meets the requirements of sub-paragraph (2).
- (g) keeps records of any complaints made in writing about the performance of any statutory audit that A has carried out

(2) The requirements for an audit file are that—

- (a) it documents at least the matters recorded in accordance with paragraph 8;



- (b) in relation to a statutory audit of a public interest entity, it documents the matters recorded in accordance with Articles 6, 7 and 8 of the Audit Regulation;
- (c) it contains any other data and documents that are important in supporting the audit report;
- (d) in relation to a statutory audit of a public interest entity, it contains any other data and documents that are important in supporting the report to the audit committee required under Article 11 of the Audit Regulation;
- (e) it contains any other data and documents that are important for monitoring compliance with relevant requirements and other applicable legal requirements;
- (f) it is closed not more than sixty days after the date the audit report is signed in accordance with section 503 of the Act.

(3) The requirements of standards mentioned in sub-paragraph (1)(a) to (c) and (g) may be simplified in relation to the statutory audit of companies exempt from the requirements of the Act relating to audit by virtue of section 477 of the Act.

**13.** Standards must ensure that remuneration received or receivable by a statutory auditor in respect of statutory audit work—

- (a) is not influenced or determined by the statutory auditor providing other services to the audited person, or
- (b) cannot be based on any form of contingency.

**14.** Standards must ensure that the scope of statutory audit work does not include, save to the extent required by the audit reporting requirements, assurance on the future viability of the audited person or on the efficiency or effectiveness with which the directors or those concerned in the management of the audited person have conducted or will conduct its affairs.

**15.—(1)** Standards must ensure that, in the case of a statutory audit of the consolidated accounts of a group of undertakings—

- (a) the group auditor bears full responsibility for the audit report,
- (b) where applicable, the group auditor bears full responsibility for ensuring the requirements of Articles 10 and 11 of the Audit Regulation are met,
- (c) the group auditor—
  - (i) evaluates and reviews the audit work carried out by any statutory auditors, EEA auditors or third country auditors for the purpose of the group audit, and
  - (ii) documents the nature, timing and extent of the work so carried out, including, where applicable, the group auditor's review of the relevant parts of the audit documentation,
- (d) any documentation retained by the group auditor is such as to enable the competent authority (or, where appropriate, the recognised supervisory body of which the group auditor is a member) to review the work of the group auditor,
- (e) for the purposes of the group auditor's review mentioned in sub-paragraph (1)(c)(i), the group auditor—
  - (i) requests the agreement of the statutory auditor, EEA auditor or third country auditor to the transfer of relevant documentation during the conduct of the audit of consolidated financial statements as a condition of the group auditor relying on the work of the statutory auditor, EEA auditor or third country auditor, and
  - (ii) if unable to request or secure the agreement mentioned in sub-paragraph (1)(e)(i), takes appropriate measures (including carrying out additional statutory audit work directly or outsourcing such work) and informs the competent authority (or

where appropriate, the recognised supervisory body of which the group auditor is a member),

(2) Standards must ensure that a group auditor, who is subject to a quality assurance review or an investigation concerning the statutory audit of the consolidated financial statements of a group of undertakings—

- (a) complies with any request by the competent authority for relevant documentation retained by the group auditor and concerning the audit work performed by the respective statutory auditors, EEA auditors or third country auditors for the purposes of the group audit (including any working papers relevant to the group audit);
- (b) in cases where the competent authority is unable to obtain documentation from the relevant competent authorities of a third country, complies with any request for additional documentation relating to audit work performed by third country auditors for the purposes of the group audit (including working papers relevant to the group audit);
- (c) in order to comply with any request under sub-paragraph (2)(b), the group auditor—
  - (i) retains copies of such documentation,
  - (ii) obtains the agreement of third country auditors to the group auditor having unrestricted access to such documentation on request,
  - (iii) retains documentation to show that the group auditor has undertaken the appropriate procedures in order to gain access to the audit documentation and evidence supporting the existence of any impediments to access, or
  - (iv) takes any other appropriate action.

**16.—**(1) In relation to the audit of public interest entities, standards must ensure that A keeps key audit documents and information for at least five years following the creation of such documents and information.

(2) In this paragraph, “key audit documents and information” means—

- (a) the documents and information referred to in Articles 4(3), 6, 7, 8(4) to (7), 10, 11, 12(1) and (2), 14, 16(2), (3) and (5) of the Audit Regulation,
- (b) information recorded in accordance with the requirements of paragraphs 8, 10, 12 and 15 of this Schedule, and
- (c) the audit report.

## SCHEDULE 2

Regulation 10

### Investigation Powers

**1.—**(1) The competent authority may for any purpose related to inspecting or investigating statutory audit work give notice to any statutory auditor (“A”) requiring A to provide information specified in the notice.

(2) Information may be specified in a notice under sub-paragraph (1) only if it is information relating to the statutory audit of the annual accounts or the consolidated accounts of any audited person.

(3) The competent authority may give notice to any person mentioned in sub-paragraph (4) requiring that person to provide information relating to the statutory audit of the annual accounts or the consolidated accounts of any public interest entity.

(4) The persons to whom notice may be given under sub-paragraph (3) are—

- (a) any person involved in the activities of a statutory auditor (including any person to whom a statutory auditor has outsourced such activities),
  - (b) any public interest entity,
  - (c) any subsidiary or parent of a public interest entity or any other subsidiary of a company of which a public interest entity is a subsidiary,
  - (d) any person otherwise having a connection to a statutory auditor carrying out the statutory audit of the annual accounts or consolidated accounts of a public interest entity.
- (5) A notice under sub-paragraph (1) or (3) must be in writing and specify the purposes for which the information is required.
- (6) A notice under sub-paragraph (1) or (3) may—
- (a) specify the time within which and the manner in which the person to whom it is given must comply with it,
  - (b) require the creation of documents, or documents of a description, specified in the notice, and
  - (c) require the provision of those documents to the competent authority.
- (7) A requirement to provide information or create a document is a requirement to do so in a legible form.
- (8) A notice under sub-paragraph (1) or (3) does not require a person to provide any information or create any documents which the person would be entitled to refuse to provide or produce—
- (a) in proceedings in the High Court on the grounds of legal professional privilege, or
  - (b) in proceedings in the Court of Session on the grounds of confidentiality of communications.
- (9) In sub-paragraph (8) “communications” means—
- (a) communications between a professional legal adviser and his client, or
  - (b) communications made in connection with or in contemplation of legal proceedings or for the purposes of those proceedings.
- 2.—**(1) If a person fails to comply with a notice under paragraph 1, the competent authority may make an application to the court.
- (2) If it appears to the court that the person has failed to comply with the notice, it may make an order requiring the person to do anything that the court thinks it is reasonable for the person to do, for any of the purposes for which the notice was given, to ensure that the notice is complied with.
- (3) Where the court makes an order under sub-paragraph (2)—
- (a) it may require the person to meet the costs or expenses of the competent authority’s application, or
  - (b) if the person is a company, partnership or unincorporated association, the court may require an officer who is responsible for the failure to meet those costs or expenses.
- (4) In this paragraph—
- “the court” means—
- (a) the High Court,
  - (b) in relation to England and Wales, the county court,
  - (c) in relation to Northern Ireland, a county court,
  - (d) the Court of Session, or
  - (e) the sheriff;

“officer” means—

- (a) in the case of a company, a director, manager, secretary or other similar officer,
- (b) in the case of a limited liability partnership, a member,
- (c) in the case of a partnership other than a limited liability partnership, a partner, and
- (d) in the case of an unincorporated association, a person who is concerned in the management or control of its affairs.

**3.—**(1) This paragraph applies if a person provides information (including information contained in a document created by the person) in response to a notice under paragraph 1.

(2) In any criminal proceedings against the person—

- (a) no evidence relating to the information may be adduced by or on behalf of the prosecution, and
- (b) no question relating to the information may be asked by or on behalf of the prosecution.

(3) Sub-paragraph (2) does not apply if, in the proceedings—

- (a) evidence relating to the information is adduced by or on behalf of the person providing it, or
- (b) a question relating to the information is asked by or on behalf of that person.

(4) Sub-paragraph (2) does not apply if the proceedings are for—

- (a) an offence under paragraph 5 (obstruction),
- (b) an offence under section 5 of the Perjury Act 1911<sup>(42)</sup> (false statutory declarations and other false statements without oath),
- (c) an offence under section 44(2) of the Criminal Law (Consolidation)(Scotland) Act 1995<sup>(43)</sup> (false statements or declarations),
- (d) an offence under Article 10 of the Perjury (Northern Ireland) Order 1979<sup>(44)</sup> (false statutory declarations and other false unsworn statements).

**4.—**(1) An officer of the competent authority may, for the purposes of inspecting or investigating the statutory audit of a public interest entity, enter relevant premises at any reasonable time if—

- (a) the requirements of sub-paragraph (3) are satisfied, or
- (b) the occupier of the premises has waived those requirements.

(2) In this paragraph “relevant premises” means premises—

- (a) in which a statutory auditor is carrying out a statutory audit, or
- (b) where documents related to a statutory audit are kept,

and does not include premises used wholly or mainly as a dwelling.

(3) The requirements of this sub-paragraph are that—

- (a) a notice in writing is given to the occupier of the premises by an officer of the competent authority,
- (b) the notice sets out why entry is necessary and gives details of the statutory audit work subject to inspection (including the name of the audited person and the accounting years in question) and indicates the nature of the offence under paragraph 5, and

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<sup>(42)</sup> 1911 c. 6.

<sup>(43)</sup> 1995 c. 39.

<sup>(44)</sup> S.I. 1979/1714 (N.I. 19).

- (c) there are at least two working days between the date the occupier of the premises receives the notice and the date of entry.
- (4) An officer of the competent authority who enters premises under this paragraph must produce evidence of the officer's identity and authority to the occupier of the premises.
- (5) An officer of the competent authority entering premises under this paragraph may—
  - (a) be accompanied by such persons and may take onto the premises such equipment as the officer thinks necessary,
  - (b) require a statutory auditor or any person acting on behalf of a statutory auditor to produce any documents relating to the statutory audit of the annual or consolidated accounts of a public interest entity to which the statutory auditor has access,
  - (c) require a statutory auditor or any person acting on behalf of a statutory auditor to give an explanation of any document produced under paragraph (b).
- (6) Where a document required to be produced under sub-paragraph (5)(b) contains information recorded electronically, the power in that sub-paragraph includes power to require the production of a copy of the document in a form in which it can easily be taken away and in which it is visible and legible.
- (7) This paragraph does not permit an officer of the competent authority to require a person to produce any document which the person would be entitled to refuse to produce—
  - (a) in proceedings in the High Court on the grounds of legal professional privilege, or
  - (b) in proceedings in the Court of Session on grounds of confidentiality of communications.
- (8) In this paragraph—
  - “communications” means—
    - (a) communications between a professional legal adviser and the adviser's client, or
    - (b) communications made in connection with or in contemplation of legal proceedings or for the purposes of those proceedings.
  - “give”, in relation to the giving of a notice to the occupier of premises, includes delivering it or leaving it at the premises or sending it there by post;
  - “working day” means a day other than—
    - (a) Saturday or Sunday,
    - (b) Christmas Day or Good Friday, or
    - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971<sup>(45)</sup> in that part of the United Kingdom in which the premises are situated.

**5.—(1)** A person commits an offence if the person—

- (a) intentionally obstructs the competent authority or an officer of the competent authority in exercising or seeking to exercise a power under and in accordance with this Schedule,
- (b) intentionally fails to comply with a requirement properly imposed by the competent authority or an officer of the competent authority under this Schedule,
- (c) without reasonable excuse fails to give the competent authority or an officer of the competent authority any other assistance or information which the competent authority or officer may reasonably require for a purpose for which the competent authority or officer may exercise a power under this Schedule.

(2) A person commits an offence if, in giving information of a kind mentioned in sub-paragraph (1)(c), the person—

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<sup>(45)</sup> 1971 c. 80.

- (a) makes a statement which the person knows is false or misleading in a material respect, or
  - (b) recklessly makes a statement which is false or misleading in a material respect.
- (3) A person who is guilty of an offence under sub-paragraph (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Nothing in this paragraph requires a person to answer any question or give any information if to do so might incriminate that person.

## SCHEDULE 3

Regulation 15

### Amendments to the Companies Act 2006

#### PART 1

##### Introductory

1. The Act is amended as set out in Parts 2 to 5 of this Schedule.
2. In this Schedule—
  - (a) a reference to a numbered section is a reference to that section of the Act; and
  - (b) a reference to a numbered Schedule is a reference to that Schedule to the Act.

#### PART 2

##### Amendment to Part 15 of the Companies Act 2006

- 3.—(1) Section 461 (permitted disclosure of information obtained under compulsory powers)(**46**) is amended as follows.
- (2) In subsection (4), for paragraph (aa)(**47**) substitute—
- “(aa) for the purpose of assisting the competent authority to exercise its functions under the Statutory Auditors and Third Country Auditors Regulations 2016(**48**) and under the Audit Regulation;”.

#### PART 3

##### Amendments to Chapters 2 to 4 of Part 16 of the Companies Act 2006

4. After section 485 (appointment of auditors of private company: general) insert—

**“485A Appointment of auditors of private company: additional requirements for public interest entities with audit committees**

(1) This section applies to the appointment under section 485(4) of an auditor or auditors of a private company—

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(46) Section 461 was amended by [S.I. 2012/1439](#).

(47) Paragraph (aa) was inserted by [S.I. 2012/1439](#).

(48) S.I. 2016/[XXXX]

- (a) which is also a public interest entity; and
  - (b) which has an audit committee.
- (2) But it does not apply to the appointment of an Auditor General as auditor or one of the auditors of the company.
- (3) Before an appointment to which this section applies is made—
- (a) the audit committee of the company must make a recommendation to the directors in connection with the appointment, and
  - (b) the directors must propose an auditor or auditors for appointment, including the following information in the proposal—
    - (i) the recommendation made by the audit committee in connection with the appointment, or
    - (ii) if the directors’ proposal departs from the preference of the audit committee, the reasons for not following the recommendation.
- (4) Before the audit committee makes a recommendation or the directors make a proposal under subsection (3), the committee or directors must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation, unless the company is a small or medium sized enterprise within the meaning in Article 2(1)(f) of [Directive 2003/71/EC](#) **(49)**.
- (5) The audit committee must in its recommendation—
- (a) identify its first and second choice candidates for appointment,
  - (b) give reasons for the choices so identified,
  - (c) state that—
    - (i) the recommendation is free from influence by a third party, and
    - (ii) no contractual term of the kind mentioned in Article 16(6) of the Audit Regulation has been imposed on the company.
- (6) Subsections (4) and (5) do not apply in relation to a recommendation or proposal for appointment of an auditor or auditors for a financial year (“the relevant financial year”)—
- (a) if the relevant financial year begins during a transitional period mentioned in subsection (7); or
  - (b) if—
    - (i) a selection procedure mentioned in subsection (8) has been carried out in respect of the appointment of the auditor or auditors in relation to a financial year beginning less than ten years before the first day of the relevant financial year; and
    - (ii) the auditor or auditors were appointed for the financial year before the relevant financial year.
- (7) The transitional periods are—
- (a) in the case of an auditor who was first appointed for a financial year beginning before 17th June 1994 and who continues to hold office on 17th June 2016, the period which begins on 17th June 2016 and ends on the day before the first day of the first financial year of the company that begins on or after 17th June 2020;
  - (b) in the case of an auditor who was first appointed for a financial year beginning on or after 17th June 1994 and before 17th June 2003 and who continues to hold office on 17th June 2016, the period which begins on 17th June 2016 and ends on

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**(49)** OJ No. L 345, 31.12.2003, p.64.

the day before the first day of the first financial year of the company that begins on or after 17th June 2023.

- (8) The selection procedures are—
- (a) a selection procedure which is in accordance with subsections (4) and (5);
  - (b) a selection procedure which substantially meets the requirements of Article 16(2) to (5) of the Audit Regulation, having regard to the circumstances at the time (including whether the company had an audit committee), which was carried out in relation to a financial year which began before 17th June 2016.

**485B Appointment of auditors of private company: additional requirements for public interest entities without audit committees**

(1) This section applies to the appointment under section 485(4) of an auditor or auditors of a private company—

- (a) which is also a public interest entity; and
- (b) which does not have an audit committee.

(2) But it does not apply to the appointment of an Auditor General as auditor or one of the auditors of the company.

(3) Before an appointment to which this section applies is made the directors must propose an auditor or auditors for appointment.

(4) Before the directors make a proposal under subsection (3), they must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation, unless the company is a small or medium sized enterprise within the meaning in Article 2(1)(f) of [Directive 2003/71/EC](#).

(5) Subsection (4) does not apply in relation to a proposal for appointment of an auditor or auditors for a financial year (“the relevant financial year”)—

- (a) if the relevant financial year begins during a transitional period mentioned in subsection (6); or
- (b) if—
  - (i) a selection procedure mentioned in subsection (7) has been carried out in respect of the appointment of the auditor or auditors in relation to a financial year beginning less than ten years before the first day of the relevant financial year; and
  - (ii) the auditor or auditors were appointed for the financial year before the relevant financial year.

(6) The transitional periods are—

- (a) in the case of an auditor who was first appointed in respect of a financial year beginning before 17th June 1994 and who continues to hold office on 17th June 2016, the period which begins on 17th June 2016 and ends on the day before the first day of the first financial year of the company that begins on or after 17th June 2020;
- (b) in the case of an auditor who was first appointed in respect of a financial year beginning on or after 17th June 1994 and before 17th June 2003 and who continues to hold office on 17th June 2016, the period which begins on 17th June 2016 and ends on the day before the first day of the first financial year of the company that begins on or after 17th June 2023.

(7) The selection procedures are—



- (a) a selection procedure which is in accordance with subsection (4);
- (b) a selection procedure which substantially meets the requirements of Article 16(2) to (5) of the Audit Regulation, having regard to the circumstances at the time (including whether the company had an audit committee), which was carried out in relation to a financial year which began before 17th June 2016.”.

5.—(1) Section 486 (appointment of auditors or private company: default power of Secretary of State) is amended as follows.

- (2) In subsection (1), after “section 485,” insert “485A or 485B”.

6.—(1) Section 487 (term of office of auditors of private company) is amended as follows.

- (2) After subsection (1) insert—

“(1A) The terms of appointment of an auditor or auditors of a private company which is also a public interest entity are subject to the additional requirement that the auditor or auditors cease to hold office on the expiry of the period for appointing auditors in respect of the first complete financial year that follows the expiry of the maximum engagement period.

(1B) But subsection (1A) does not apply to an Auditor General.

- (1C) In this section—

“the maximum engagement period” means, subject to subsection (1D) and section 487A (which makes transitional provision in relation to auditors appointed before 17th June 2016), whichever of the following periods is longest—

- (a) the period of ten years beginning with the first day of the first financial year in respect of which the auditor was appointed,
- (b) the period of twenty years beginning with the first day of the first financial year in respect of which the auditor was appointed, if the selection requirements are satisfied for at least one financial year which begins every ten years in that period, or
- (c) such other period of no more than twenty years beginning with the first day of the first financial year in respect of which the auditor was appointed and ending on the last day of the relevant ten year period;

“the relevant ten year period” means the period of ten years beginning with the first day of the last financial year—

- (a) which begins within ten years of the first day of the first financial year in respect of which the auditor was appointed, and
- (b) in respect of which the auditor was reappointed following the carrying out of a selection procedure in accordance with the selection requirements; and

“the selection requirements” means—

- (a) the requirements of section 485A(4) and (5) if the company has an audit committee, or
- (b) the requirements of section 485B(4) if the company does not have an audit committee.

(1D) The maximum engagement period may be extended by a period of up to two years with the approval of the competent authority, provided that—

- (a) in a case where the period within paragraph (a) of the definition of “the maximum engagement period” is being extended, the appointment of the auditor for the first complete financial year following the end of that period is made following

the carrying out of a selection procedure in accordance with the selection requirements; and

- (b) in all cases, the competent authority is satisfied that exceptional circumstances exist.

(1E) An auditor is ineligible for appointment as auditor of a private company which is also a public interest entity if—

- (a) within the four years preceding the start of the financial year to which that appointment relates the auditor has ceased by virtue of subsection (1A) to hold office as auditor of that company, or
- (b) the auditor is a member of the same network as an auditor who within the four years preceding the start of the financial year to which that appointment relates has ceased by virtue of that subsection to hold office as auditor of that company.”

(3) In subsection (2), at the end of paragraph (e) insert—

“, or

(f) the auditor has ceased to hold office by virtue of subsection (1A).”.

7. After section 487 insert—

**“487A Maximum engagement period: transitional arrangements**

(1) In the case of an auditor who was first appointed in respect of a financial year beginning before 17th June 1994 and who continues to hold office on 17th June 2016, “the maximum engagement period” means the period ending on the day before the first day of the first financial year of the company that begins on or after 17th June 2020.

(2) In the case of an auditor who was first appointed in respect of a financial year beginning on or after 17th June 1994 and before 17th June 2003 and who continues to hold office on 17th June 2016, “the maximum engagement period” means the period ending on the day before the first day of the first financial year of the company that begins on or after 17th June 2023.

(3) In the case of an auditor who was first appointed in respect of a financial year beginning on or after 17th June 2003 and before 17th June 2016 and who continues to hold office on 17th June 2016, “the maximum engagement period” means whichever of the following periods is longest—

- (a) the period ending on whichever is the later of—
  - (i) the day before the first day of the first financial year of the company that begins on or after 17th June 2016;
  - (ii) the last day of the period of ten years beginning with the first day of the first financial year of the company in respect of which the auditor was appointed,
- (b) the period of twenty years beginning with the first day of the first financial year in respect of which the auditor was appointed, if the selection requirements are satisfied for at least one financial year which begins every ten years in the period beginning on 17th June 2007, or
- (c) such other period of no more than twenty years beginning with the first day of the first financial year in respect of which the auditor was appointed and ending on the last day of the relevant ten year period.

(4) In this section—

“the relevant ten year period” means the period of ten years beginning with the first day of the last financial year—

- (a) which begins either within ten years of the first day of the first financial year in respect of which the auditor was appointed or, if later, on or before 16th June 2017, and
- (b) in respect of which the auditor was reappointed following the carrying out of a selection procedure in accordance with the selection requirements;

“the selection requirements” means—

- (a) in relation to an accounting year beginning on or after 17th June 2016—
  - (i) the requirements of section 485A(4) and (5), if the company has an audit committee,
  - (ii) the requirements of section 485B(4) if the company does not have an audit committee,
- (b) in relation to an accounting year beginning before 17th June 2016, the requirement that the company carries out a tender process which substantially meets the requirements of Article 16(2) to (5) of the Audit Regulation, having regard to the circumstances at the time (including whether the company had an audit committee).

(5) The maximum engagement period may be extended by a period of up to two years with the approval of the competent authority, provided that—

- (a) in a case where the period under subsection (3)(a) is being extended, the appointment of the auditor for the first complete financial year following the end of that period is made following the carrying out of a selection procedure in accordance with the selection requirements; and
- (b) in all cases, the competent authority is satisfied that exceptional circumstances exist.”.

8. After section 489 (appointment of auditors of public company: general) insert—

**“489A Appointment of auditors of public company: additional requirements for public interest entities with audit committees**

(1) This section applies to the appointment under section 489(4) of an auditor or auditors of a public company—

- (a) which is also a public interest entity; and
- (b) which has an audit committee.

(2) But it does not apply to the appointment of an Auditor General as auditor or one of the auditors of the company.

(3) Before an appointment to which this section applies is made—

- (a) the audit committee of the company must make a recommendation to the directors in connection with the appointment, and
- (b) the directors must propose an auditor or auditors for appointment, including the following information in the proposal—
  - (i) the recommendation made by the audit committee in connection with the appointment, or
  - (ii) if the directors’ proposal does not accord with that recommendation, the reasons for not following the recommendation.

- (4) Before the audit committee makes a recommendation or the directors make a proposal under subsection (3), the committee or directors must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation, unless the company is—
- (a) a small or medium sized enterprise within the meaning in Article 2(1)(f) of [Directive 2003/71/EC](#); or
  - (b) a company with reduced market capitalisation within the meaning in Article 2(1)(t) of that Directive<sup>(50)</sup>.
- (5) The audit committee must in its recommendation—
- (a) identify its first and second choice candidates for appointment,
  - (b) give reasons for the choices so identified,
  - (c) state that—
    - (i) the recommendation is free from influence by a third party, and
    - (ii) no contractual term of the kind mentioned in Article 16(6) of the Audit Regulation has been imposed on the company.
- (6) Subsections (4) and (5) do not apply in relation to a recommendation or proposal for appointment of an auditor or auditors for a financial year (“the relevant financial year”)—
- (a) if the relevant financial year begins during a transitional period mentioned in subsection (7); or
  - (b) if—
    - (i) a selection procedure mentioned in subsection (8) has been carried out in respect of the appointment of the auditor or auditors in relation to a financial year beginning less than ten years before the first day of the relevant financial year ; and
    - (ii) the auditor or auditors were appointed for the financial year before the relevant financial year.
- (7) The transitional periods are—
- (a) in the case of an auditor who was first appointed in respect of a financial year beginning before 17th June 1994 and who continues to hold office on 17th June 2016, the period which begins on 17th June 2016 and ends on the day before the first day of the first financial year of the company that begins on or after 17 June 2020;
  - (b) in the case of an auditor who was first appointed in respect of a financial year beginning on or after 17th June 1994 and before 17th June 2003 and who continues to hold office on 17th June 2016, the period which begins on 17th June 2016 and ends on the day before the first day of the first financial year of the company that begins on or after 17th June 2023.
- (8) The selection procedures are—
- (a) a selection procedure which is in accordance with subsections (4) and (5);
  - (b) a selection procedure which substantially meets the requirements of Article 16(2) to (5) of the Audit Regulation, having regard to the circumstances at the time (including whether the company had an audit committee), which was carried out in relation to a financial year which began before 17th June 2016.

<sup>(50)</sup> Article 2(1)(t) was inserted by [Directive 2010/73/EU](#) of the European Parliament and of the Council (OJ No L 327, 11.12.2010, p1).

#### **489B Appointment of auditors of public company: additional requirements for public interest entities without audit committees**

(1) This section applies to the appointment under section 489(4) of an auditor or auditors of a public company—

- (a) which is also a public interest entity; and
- (b) which does not have an audit committee.

(2) But it does not apply to the appointment of an Auditor General as auditor or one of the auditors of the company.

(3) Before an appointment to which this section applies is made the directors must propose an auditor or auditors for appointment.

(4) Before the directors make a proposal under subsection (3), the directors must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation, unless the company is—

- (a) a small or medium sized enterprise within the meaning in Article 2(1)(f) of [Directive 2003/71/EU\(51\)](#); or
- (b) a company with reduced market capitalisation within the meaning in Article 2(1)(t) of that Directive.

(5) Subsection (4) does not apply in relation to a recommendation or proposal for appointment of an auditor or auditors for a financial year (“the relevant financial year”)—

- (a) if the relevant financial year begins during a transitional period mentioned in subsection (6); or
- (b) if—
  - (i) a selection procedure mentioned in subsection (7) has been carried out in respect of the appointment of the auditor or auditors in relation to a financial year beginning less than ten years before the first day of the relevant financial year ; and
  - (ii) the auditor or auditors were appointed for the financial year before the relevant financial year.

(6) The transitional periods are—

- (a) in the case of an auditor who was first appointed in respect of a financial year beginning before 17th June 1994 and who continues to hold office on 17th June 2016, the period which begins on 17th June 2016 and ends on the day before the first day of the first financial year of the company that begins on or after 17th June 2020;
- (b) in the case of an auditor who was first appointed in respect of a financial year beginning on or after 17th June 1994 and before 17th June 2003 and who continues to hold office on 17th June 2016, the period which begins on 17th June 2016 and ends on the day before the first day of the first financial year of the company that begins on or after 17th June 2023.

(7) The selection procedures are—

- (a) a selection procedure which is in accordance with subsection (4);
- (b) a selection procedure which substantially meets the requirements of Article 16(2) to (5) of the Audit Regulation, having regard to the circumstances at the time

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(51) OJ No L 345, 31.12.2003, p.64-89.

(including whether the company had an audit committee), which was carried out in relation to a financial year which began before 17th June 2016.”.

**9.**—(1) Section 490 (appointment of auditors of public company: default power of Secretary of State) is amended as follows.

(2) In subsection (1), after “section 489,” insert “489A or 489B”.

**10.**—(1) Section 491 (term of office of auditors of public company) is amended as follows.

(2) After subsection (1) insert—

“(1A) The terms of appointment of an auditor or auditors of a public company which is also a public interest entity are subject to the additional requirement that the auditor or auditors cease to hold office at the end of the accounts meeting in respect of the first financial year which ends after the expiry of the maximum engagement period.

(1B) But subsection (1) does not apply to an Auditor General.

(1C) In this section—

“the maximum engagement period” means, subject to subsection (1D) and section 491A (which makes transitional provision in relation to auditors appointed before 17th June 2016) whichever of the following periods is longest—

- (a) the period of ten years beginning with the first day of the first financial year in respect of which the auditor was appointed, or
- (b) the period of twenty years beginning with the first day of the first financial year in respect of which the auditor was appointed if the selection requirements are satisfied for at least one financial year which begins every ten years in that period, or
- (c) such other period of no more than twenty years beginning with the first day of the first financial year in respect of which the auditor was appointed and ending on the last day of the relevant ten year period,

“the relevant ten year period” means the period of ten years beginning with the first day of the last financial year—

- (a) which begins within ten years of the first day of the first financial year in respect of which the auditor was appointed, and
- (b) in respect of which the auditor was reappointed following the carrying out of a selection procedure in accordance with the selection requirements; and

“the selection requirements” means—

- (a) the requirements of section 489A(4) and (5) if the company has an audit committee, or
- (b) the requirements of section 489B(4) if the company does not have an audit committee.

(1D) The maximum engagement period may be extended by a period of up to two years with the approval of the competent authority, provided that—

- (a) in a case where the period within paragraph (a) of the definition of “the maximum engagement period” is being extended, the appointment of the auditor for the first complete financial year following the end of that period is made following the carrying out of a selection procedure in accordance with the selection requirements; and
- (b) in all cases, the competent authority is satisfied that exceptional circumstances exist.

(1E) An auditor is ineligible for appointment as auditor of a public company which is also a public interest entity if—

- (a) within the four years preceding the start of the financial year to which that appointment relates the auditor has ceased by virtue of subsection (1A) to hold office as auditor of that company, or
- (b) the auditor is a member of the same network as an auditor who within the four years preceding the start of the financial year to which that appointment relates has ceased by virtue of that subsection to hold office as auditor of that company.”.

11. After section 491 insert—

**“491A Maximum engagement period: transitional arrangements**

(1) In the case of an auditor who was first appointed in respect of a financial year beginning before 17th June 1994 and who continues to hold office on 17th June 2016, “the maximum engagement period” means the period ending on the day before the first day of the first financial year of the company that begins on or after 17th June 2020.

(2) In the case of an auditor who was first appointed in respect of a financial year beginning on or after 17th June 1994 and before 17th June 2003 and who continues to hold office on 17th June 2016, “the maximum engagement period” means the period ending on the day before the first day of the first financial year of the company that begins on or after 17th June 2023.

(3) In the case of an auditor who was first appointed in respect of a financial year beginning on or after 17th June 2003 and before 17th June 2016 and who continues to hold office on 17th June 2016, “the maximum engagement period” means whichever of the following periods is longest—

- (a) the period ending on whichever is the later of—
  - (i) the day before the first day of the first financial year of the company that begins on or after 17th June 2016; or
  - (ii) the last day of the period of ten years beginning with the first day of the first financial year of the company in respect of which the auditor was appointed,
- (b) the period of twenty years beginning with the first day of the first financial year in respect of which the auditor was appointed if the selection requirements are satisfied for at least one financial year which begins every ten years in the period beginning on 17th June 2007,
- (c) such other period of no more than twenty years beginning with the first day of the first financial year in respect of which the auditor was appointed and ending on the last day of the relevant ten year period.

(4) In this section—

“the relevant ten year period” means the period of ten years beginning with the first day of the last financial year—

- (a) which begins either within ten years of the first day of the first financial year in respect of which the auditor was appointed or, if later, on or before 16th June 2017, and
- (b) in respect of which the auditor was reappointed following the carrying out of a selection procedure in accordance with the selection requirements; and

“the selection requirements” means—

- (a) in relation to an accounting year beginning on or after 17th June 2016—

- (i) the requirements of section 489A(4) and (5), if the company has an audit committee,
  - (ii) the requirements of section 489B(4) if the company does not have an audit committee,
  - (b) in relation to an accounting year beginning before 17th June 2016, the requirement that the company carries out a tender process which substantially meets the requirements of Article 16(2) to (5) of the Audit Regulation, having regard to the circumstances at the time (including whether the company had an audit committee).
- (5) The maximum engagement period may be extended by a period of up to two years with the approval of the competent authority, provided that—
- (a) in a case where the period under subsection (3)(a) is being extended, the appointment of the auditor for the first complete financial year following the end of that period is made following the carrying out of a selection procedure in accordance with the selection requirements; and
  - (b) in all cases, the competent authority is satisfied that exceptional circumstances exist.”

12. After section 494 (disclosure of services provided by auditor or associates and related remuneration) insert—

#### “494A Interpretation

In this Chapter—

“audit committee” means a body which performs the functions referred to in Article 39(6) of the Audit Directive or equivalent functions;

“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](#)([52](#));

“Auditor General” means—

- (a) the Comptroller and Auditor General,
- (b) the Auditor General for Scotland,
- (c) the Auditor General for Wales, or
- (d) the Comptroller and Auditor General for Northern Ireland;

“issuer” has the same meaning as in Part 6 of the Financial Services and Markets Act 2000([53](#)) (see section 102A(6)([54](#)));

“network” means an association of persons other than a firm co-operating 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;

(52) OJ L 157/87 09.06.06. This Directive was amended by Directives [2008/30/EC](#), [2013/34/EU](#) and [2014/56/EU](#).

(53) [2000 c. 8](#).

(54) Section 102A was inserted by [S.I. 2005/1433](#) and amended by [S.I. 2015/1755](#).



- (e) common business strategy; or
  - (f) use of a common name;
- “public interest company” means—
- (a) an issuer whose transferable securities are admitted to trading on a regulated market;
  - (b) a credit institution within the meaning given by Article 4(1)(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council<sup>(55)</sup>, other than one listed in Article 2 of [Directive 2013/36/EU](#) of the European Parliament and of the Council on access to the activity of credit institutions and investment firms<sup>(56)</sup>;
  - (c) an insurance undertaking within the meaning given by Article 2(1) of Council Directive [1991/674/EEC](#) of the European Parliament and of the Council on the annual accounts and consolidated accounts of insurance undertakings<sup>(57)</sup>;
- “regulated market” has the same meaning as in Part 6 of the Financial Services and Markets Act 2000 (see section 103(1)<sup>(58)</sup>);
- “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<sup>(59)</sup>.”.

**13.**—(1) Section 495 (auditor’s report on company’s annual accounts)<sup>(60)</sup> is amended as follows.

(2) For subsection (2) substitute—

“(2) The auditor’s report must include—

- (a) the identity of the company whose annual accounts are the subject of the audit,
- (b) a description of the annual accounts that are the subject of the audit (including the period covered by those accounts),
- (c) a description of the financial reporting framework that has been applied in the preparation of those accounts, and
- (d) a description of the scope of the audit identifying the auditing standards in accordance with which the audit was conducted.”

(3) For subsection (4) substitute—

“(4) The auditor’s report—

- (a) must be either unqualified or qualified,
- (b) must include a reference to any matters to which the auditor wishes to draw attention by way of emphasis without qualifying the report,
- (c) must include a statement on any material uncertainty relating to events that may cast significant doubt about the company’s ability to continue to adopt the going concern basis of accounting, and
- (d) must identify the auditor’s place of establishment.”.

(4) After subsection (4) insert—

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<sup>(55)</sup> O.J. L176 27.06.2013, p.1-337.

<sup>(56)</sup> O.J. L176 27.06.2013, p. 338-436.

<sup>(57)</sup> O.J. L374 31.12.1991 p. 7-31.

<sup>(58)</sup> Section 103 was substituted by [S.I. 2005/1433](#) and amended by paragraphs 1 and 11 of Schedule 15 to the Companies Act [2006 \(c. 46\)](#). There are other amendments but none is relevant.

<sup>(59)</sup> O.J. L145 30.04.2004, p. 1-44.

<sup>(60)</sup> Section 495 was amended by [S.I. 2013/3008](#).

“(5) Where more than one person is appointed as an auditor—

- (a) all the persons appointed must jointly make a report under this section and the report must include a statement as to whether all the persons appointed agree on the matters contained in the report, and
- (b) if all the persons appointed cannot agree on the matters contained in the report, the report must include the opinions of each person appointed and give reasons for the disagreement.”.

**14.**—(1) Section 496 (auditor’s report on strategic report and director’s report)(**61**) is amended as follows.

(2) The existing words become subsection (1) and after that subsection, insert—

“(2) Where more than one person is appointed as auditor, the report must include a statement as to whether all the persons appointed agree on the statements and indications given under subsection (1) and, if they cannot agree on those statements and indications, the report must include the opinions of each person appointed and give reasons for the disagreement.”.

**15.**—(1) Section 497A (auditor’s report on separate corporate governance statement)(**62**) is amended as follows.

(2) The existing words become subsection (1) and after that subsection, insert—

“(2) Where more than one person is appointed as auditor, the report must include a statement as to whether all the persons appointed agree on the statements and indications given under subsection (1) and, if they cannot agree on those statements and indications, the report must include the opinions of each person appointed and give reasons for the disagreement.”.

**16.**—(1) Section 498 (duties of auditor)(**63**) is amended as follows.

(2) After subsection (5) insert—

“(6) Where more than one person is appointed as auditor, the report must include a statement as to whether all the persons appointed agree on the statements given under subsections (2) to (5) and, if they cannot agree on those statements, the report must include the opinions of each person appointed and give reasons for the disagreement.”.

**17.**—(1) Section 503 (signature of auditor’s report) is amended as follows.

(2) After subsection (3) insert—

“(4) Where more than one person is appointed as auditor, the report must be signed by all those appointed.”.

**18.**—(1) Section 505 (names to be stated in published copies of auditor’s report) is amended as follows.

(2) After subsection (1) insert—

“(1A) If more than one person is appointed as auditor, the reference in subsection (1)(a) to the name of the auditor is to be read as a reference to the names of all the auditors.”.

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(61) Section 496 was substituted by [S.I. 2015/980](#).

(62) Section 497A was inserted by [S.I. 2009/1581](#) and substituted by [S.I. 2015/980](#).

(63) Section 498 was amended by [S.I. 2008/393](#) and [S.I. 2013/1970](#).

**19.**—(1) Section 508 (guidance for regulatory and prosecuting authorities: England, Wales and Northern Ireland) is amended as follows.

(2) For subsection (1)(b), substitute—

“(b) has been, is being or may be investigated—

- (i) pursuant to arrangements under paragraph 15 of Schedule 10 (investigation of complaints against auditors and supervisory bodies), or
- (ii) by the competent authority under the Statutory Auditors and Third Country Auditors Regulations 2016.”.

**20.**—(1) Section 509 (guidance for regulatory authorities: Scotland) is amended as follows.

(2) For subsection (1)(b), substitute—

“(b) has been, is being or may be investigated—

- (i) pursuant to arrangements under paragraph 15 of Schedule 10 (investigation of complaints against auditors and supervisory bodies), or
- (ii) by the competent authority under the Statutory Auditors and Third Country Auditors Regulations 2016.”.

**21.**—(1) Section 510 (resolution removing auditors from office) is amended as follows.

(2) For subsection (4) substitute—

“(4) An auditor may not be removed from office before the expiration of his term of office except—

- (a) by resolution under this section, or
- (b) in accordance with section 511A.”.

**22.**—(1) After section 511 (special notice required for resolution removing auditor from office) insert—

**“511A Public interest companies: application to court to remove auditor from office**

(1) This section applies only to a public interest company.

(2) The competent authority may apply to the court for an order removing an auditor of a company from office if the authority considers that there are proper grounds for removing the auditor from office.

(3) The members of a company may apply to the court for an order removing an auditor of the company from office if the applicant or applicants consider that there are proper grounds for removing the auditor from office.

(4) If the court is satisfied, on hearing an application under subsection (2), that there are proper grounds for removing the auditor from office, it may make an order removing the auditor from office.

(5) If the court is satisfied, on hearing an application under subsection (3), that—

- (a) the applicants represent in total—
  - (i) not less than 5% of the voting rights of all the members having a right to vote at a general meeting of the company, or
  - (ii) not less than 5% in nominal value of the company’s share capital, and
- (b) there are proper grounds for removing the auditor from office,

the court may make an order removing the auditor from office.

(6) For the purposes of this section, divergence of opinions on accounting treatments or audit procedures are not to be taken to be proper grounds for removing an auditor from office.

(7) In this section the competent authority means the body designated under section 1252 of this Act.”.

**23.**—(1) Section 513 (rights of auditor who has been removed from office) is amended as follows.

(2) In subsection (1), after the words “under section 510” insert “or by order of the court under section 511A”.

**24.**—(1) Section 514 (failure to re-appoint auditor: special procedure required for written resolution)(**64**) is amended as follows.

(2) In subsections (1) and (2A)(b) after the words “section 510”, insert “, 511A”.

**25.**—(1) Section 515 (failure to re-appoint auditor: special notice required for resolution at general meeting)(**65**) is amended as follows.

(2) In subsections (1), (1A) and (2A)(b), after “section 510” insert “, 511A”.

**26.**—(1) Section 519A (meaning of “public interest company”, “non-public interest company” and “exempt reasons”)(**66**) is amended as follows.

(2) In subsection (1) for the definition of “public interest company” substitute—

““public interest company” means a company which is—

- (a) an issuer whose transferable securities are admitted to trading on a regulated market;
- (b) a credit institution within the meaning given by Article 4(1)(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council(**67**), other than one listed in Article 2 of [Directive 2013/36/EU](#) of the European Parliament and of the Council on access to the activity of credit institutions and investment firms(**68**); or
- (c) an insurance undertaking within the meaning given by Article 2(1) of Council Directive [1991/674/EEC](#) of the European Parliament and of the Council on the annual accounts and consolidated accounts of insurance undertakings(**69**);”.

(3) For subsection (2) substitute—

“(2) For the purposes of the definition of “public interest company”—

“issuer” has the same meaning as in Part 6 of the Financial Services and Markets Act 2000 (see section 102A(6)(**70**));

“regulated market” has the same meaning as in Part 6 of the Financial Services and Markets Act 2000 (see section 103(1)(**71**));

“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(**72**).”.

(64) Section 514 was amended by section 18 of, and paragraphs 13 and 14 of Schedule 5 to, the Deregulation Act [2015 \(c. 20\)](#).

(65) Section 515 was amended by section of, and paragraphs 13 and 15 of Schedule 5 to, the Deregulation Act 2015.

(66) Section 519A was inserted by section 18 of the Deregulation Act 2015.

(67) OJ No L 176, 27.6.2013, p.1-337.

(68) OJ No L 176, 27.6.2013, p. 338- 436.

(69) OJ No L 374, 31.12.1991, p.7- 31.

(70) Section 102A was substituted by [S.I. 2005/1433](#) and amended by [S.I. 2015/1755](#).

(71) Section 103 was substituted for section 103 by [S.I. 2005/1433](#) and amended by paragraph 11(2) of Schedule 15(1) to the Companies Act [2006 \(c.46\)](#).

(72) OJ No L 145, 30.4.2004, p.1- 44.

## PART 4

### Amendments to Part 38 of the Companies Act 2006

**27.**—(1) Section 1173 (minor definitions: general) is amended as follows.

(2) In subsection (1) at the appropriate places insert—

““the Audit Regulation” means Regulation 537/2014 of the European Parliament and of the Council on specific requirements regarding statutory audit of public interest entities(73);”;

““the competent authority” means the Financial Reporting Council Limited(74);”.

**28.**—(1) Schedule 8 (index of defined expressions) is amended as follows.

(2) At the appropriate places insert—

“the Audit Regulation	section 1173(1)”
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“the competent authority	section 1173(1)”
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## PART 5

### Amendments to Part 42 of the Companies Act 2006

**29.**—(1) Section 1217 (supervisory bodies)(75) is amended as follows.

(2) In subsection (1A), for the words from “paragraphs 9(3)(b)” to “other officer)” substitute “paragraphs 9(1A) and 10C(3) (bar on appointment as director or other officer) and paragraph 9(3)(b) (confidentiality of information)”.

(3) In subsection (3), after “which the body” insert, “or the competent authority”.

**30.**—(1) Section 1218 (exemption from liability for damages) is amended as follows.

(2) In subsection (3)—

(a) in paragraph (d), after “this Part” insert “or by or by virtue of the Statutory Auditors and Third Country Auditors Regulations 2016;”;

(b) after paragraph (d) insert—

“(e) the obligations imposed on the body by or by virtue of the Audit Regulation.”.

(3) In subsection (4)—

(a) in paragraph (b), after “this Part” insert “, the Statutory Auditors and Third Country Auditors Regulations 2016 or the Audit Regulation”;

(b) in the closing words, after “this Part” insert “, the Statutory Auditors and Third Country Auditors Regulations 2016 or the Audit Regulation”.

**31.** After section 1223 (matters to be notified to the Secretary of State), insert—

(73) OJ No L 158, 27.5.2014, p.77-112.

(74) A company registered in England and Wales with number 02486368.

(75) Section 1217 was amended by [S.I.2007/3494](#).

**“Matters to be notified to the competent authority**

**1223ZA.**—(1) The competent authority may require a recognised supervisory body—

- (a) to notify the competent authority immediately of the occurrence of such events as the competent authority may specify in writing and to give the competent authority such information in respect of those events as is so specified;
- (b) to give the competent authority, at such times or in respect of such periods as the competent authority may specify in writing, such information as is so specified.

(2) The notices and information required to be given must be such as the competent authority may reasonably require for the exercise of its functions under this Part, the Statutory Auditors and Third Country Auditors Regulations 2016 or the Audit Regulation.

(3) The competent authority may require information given under this section to be given in a specified form or verified in a specified manner.

(4) Any notice or information required to be given under this section must be given in writing unless the competent authority specifies or approves some other manner.”.

**32.**—(1) Section 1223A (notification of matters relevant to other EEA states)(**76**) is amended as follows.

(2) For subsection (1), substitute—

“(1) A recognised supervisory body must notify the Secretary of State—

- (a) if a notifiable person becomes eligible for appointment as a statutory auditor, unless the notifiable person is an individual;
- (b) if a notifiable person’s eligibility for appointment as a statutory auditor is withdrawn;
- (c) of the reasons for any such withdrawal.”.

**33.** After section 1224 (Secretary of State’s power to call for information), insert—

**“The competent authority’s power to call for information**

**1224ZA.**—(1) The competent authority may by notice in writing require any recognised supervisory body to give the competent authority such information as it may reasonably require for the exercise of its functions under this Part, the Statutory Auditors and Third Country Auditors Regulations 2016 or the Audit Regulation.

(2) The competent authority may require that any information which it requires under this section is to be given within such reasonable time and verified in such manner as it may specify.”.

**34.**—(1) Section 1224A (restrictions on disclosure)(**77**) is amended as follows.

(2) In subsection (1), for the words from “or sections 522 to 524” to the end substitute “sections 522 to 524 (notification to appropriate audit authority of resignation or removal of auditor), the Statutory Auditors and Third Country Auditors Regulations 2016 or the Audit Regulation.”.

(3) In subsection (2), for paragraph (c) substitute—

“(c) the competent authority.”.

**35.**—(1) Section 1225 (enforcement: general)(**78**) is amended as follows.

(76) Section 1223A was inserted by [S.I. 2007/3494](#).

(77) Section 1224A was inserted by [S.I. 2007/3494](#) and amended by [S.I. 2011/1856](#).

(78) Section 1225, 1225A-1225G was substituted for section 1225 by [S.I. 2012/1741](#).

(2) In subsection (1)—

(a) in paragraph (b) omit “or”;

(b) at the end of paragraph (c) insert “or” and after that paragraph insert—

“(d) that a recognised supervisory body has not complied with an obligation imposed on it by or by virtue of the Statutory Auditors and Third Country Auditors Regulations 2016.”.

(3) In subsection (3), after “Schedule 11 (revocation of recognition orders)” insert “or the powers of the competent authority under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016.”.

**36.**—(1) Section 1229 (supervision of Auditors General by the Independent Supervisor)(**79**) is amended as follows.

(2) In subsection (2)(b), for “bodies” substitute “recognised supervisory bodies”.

(3) In subsection (3A), for “paragraphs 9 to 10A and 12 to 15” substitute “paragraphs 9 to 10C and 12 to 16”.

**37.**—(1) Section 1239 (register of auditors)(**80**) is amended as follows.

(2) In subsection (5), omit paragraph (e) and after paragraph (f) insert—

“(g) the competent authority”.

**38.**—(1) Section 1251A (duty of Secretary of State to report on inspections)(**81**) is amended as follows.

(2) In paragraph (b) for “paragraph 13(9)”, substitute “paragraph 13(12)”.

**39.**—(1) Section 1252 (delegation of Secretary of State’s functions) is amended as follows.

(2) In subsection (2)(b), for “(whether” substitute “(including the competent authority, and whether”.

**40.**—(1) Section 1253 (delegation of functions to an existing body)(**82**) is amended as follows.

(2) In subsection (5) omit the words “paragraph 21 to 22B, 23(1)(**83**), 23A(1) (**84**) or 24(1)(**85**) of Schedule 10 or”.

**41.**—(1) Section 1253B (requests from EEA competent authorities)(**86**) is amended as follows.

(2) For subsection (1) substitute—

“(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 or a European supervisory authority (“the requesting authority”), in accordance with Article 36 of the Audit Directive (regulatory co-operation between Member States) or Article 31, 32 or 33 of the Audit Regulation.”.

(79) Sections 1229(2), 1229(2A) and 1229(3A) were inserted by S.I. 2007/3494.

(80) Section 1239 was amended by S.I. 2007/3494.

(81) Section 1251A was inserted by S.I. 2007/3494.

(82) Section 1253 was amended by S.I. 2013/1672.

(83) Paragraph 23(1) was substituted for paragraph 23(1) by S.I. 2012/1741.

(84) Paragraph 23A was inserted by S.I. 2011/1856 and amended by S.I. 2013/1672.

(85) Paragraph 24(1) and (1A) were substituted for paragraph 24(1) by S.I. 2012/1741.

(86) Section 1253B was inserted by S.I. 2007/3494.

- (3) In subsection (2)—
- (a) in paragraph (a), for “the EEA competent authority” substitute “the requesting authority”, and
  - (b) in paragraph (b), for “the EEA competent authority which made the request” substitute “the requesting authority”.
- (4) After subsection (3) insert—
- “(4) In this section “European supervisory authority” means—
- (a) the European Securities and Markets Authority;
  - (b) the European Banking Authority;
  - (c) the European Insurance and Occupational Pensions Authority.”.

**42.**—(1) Section 1253C (notification to competent authorities of other EEA states)(**87**) is amended as follows.

- (2) For subsection (1) substitute—
- “(1) If the Secretary of State receives notice from a recognised supervisory body under section 1223A(1) (notification of matters relevant to other EEA States) that—
- (a) a person has become eligible for appointment as a statutory auditor, or
  - (b) a person’s eligibility for appointment as a statutory auditor has been withdrawn,
- the Secretary of State must notify the relevant EEA competent authority.”.

(3) In subsection (3), for the words from “the reasons” to the end substitute, “, in a case where a person’s eligibility for appointment as a statutory auditor has been withdrawn, the reasons for the withdrawal”.

**43.**—(1) Section 1253D (restriction on transfer of audit working papers to third countries)(**88**) is amended as follows.

(2) In subsection (1), for “Audit working papers” substitute “Audit working papers and investigation reports”.

**44.**—(1) Section 1253DA (transfer by Secretary of State) is amended as follows.

(2) For the words “audit working papers” wherever they appear substitute “audit working papers and investigation reports”.

**45.**—(1) Section 1253DB (transfer by statutory auditor with approval of Secretary of State) is amended as follows.

(2) For the words “audit working papers” wherever they appear substitute “audit working papers and investigation reports”.

**46.** In section 1253DC (transfer by statutory auditor for purposes of investigation of auditor), for “audit working papers” substitute “audit working papers and investigation reports”.

**47.**—(1) Section 1253DD (agreement of EEA competent authority) is amended as follows.

(2) For the words “audit working papers” wherever they appear substitute “audit working papers and investigation reports”.

**48.**—(1) Section 1253DE (transfer by means of inspection) is amended as follows.

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(87) Section 1253C was inserted by [S.I. 2007/3494](#) and amended by [S.I. 2011/1043](#).

(88) Sections 1253D-1253DE were substituted for section 1253D by [S.I. 2010/2537](#).



(2) In subsection (1)(89) for “audit working papers” substitute “audit working papers and investigation reports”.

**49.**—(1) Section 1253E (working arrangements for transfer of papers) is amended as follows.

(2) For the words “audit working papers” wherever they appear, substitute “audit working papers and investigation reports”.

(3) In subsection (5)—

(a) omit the word “and” at the end of paragraph (a);

(b) at the end of paragraph (b), insert “and” and after that paragraph, insert—

“(c) ensure that the protection of the commercial interests of any audited person, including its industrial and intellectual property, is not undermined.”.

(4) After subsection (7) insert—

“(7A) The arrangements must—

(a) provide that the Secretary of State may only disclose confidential information received from the third country competent authority—

(i) with the agreement of that authority or for purposes for which that authority has given its agreement,

(ii) where disclosure is required by law, or

(iii) where disclosure is necessary in connection with legal proceedings, and

(b) provide that the third country competent authority may only disclose confidential information received from the Secretary of State—

(i) with the Secretary of State’s agreement or for purposes for which the Secretary of State has given agreement,

(ii) where disclosure is required by law, or

(iii) where disclosure is necessary in connection with legal proceedings.”.

**50.**—(1) Section 1254 (directions to comply with international obligations)(90) is amended as follows.

(2) In subsection (1)(a), after “the Independent Supervisor” insert “, the competent authority”.

(3) In subsection (3), after “the Independent Supervisor” insert “, the competent authority”.

**51.**—(1) Section 1261 (minor definitions) is amended as follows.

(2) In subsection (1)—

(a) at the appropriate places, insert the following definitions—

““audit working papers and investigation reports” means—

(a) any documents which are or have been held by a statutory auditor, an EEA auditor or a third country auditor and which are related to the conduct of an audit conducted by that auditor;

(b) any report of an inspection of the conduct of an audit by a statutory auditor, an EEA auditor or a third country auditor, or

(c) any report of an investigation into the conduct of a statutory auditor, an EEA auditor or a third country auditor.”;

(89) Section 1253DE(1) was amended by [S.I. 2010/2537](#).

(90) Section 1254 was amended by [S.I. 2007/3494](#) and [2011/1043](#).

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Statutory Auditors and Third Country Auditors Regulations 2016 No. 649*

““the Audit Regulation” means Regulation 537/2014 of the European Parliament and of the Council on specific requirements regarding statutory audit of public interest entities;”;

““the competent authority” means the Financial Reporting Council Limited”;

- (b) in the definition of “the Audit Directive” omit the words “ as amended at any time before 1st January 2009”;
- (c) omit the definition of “audit working papers”;
- (d) in the definition of “third country auditor” after “other than” insert “an EEA auditor or”;
- (e) in the definition of “transfer” after “audit working papers” insert “and investigation reports”.

**52.**—(1) Section 1262 (index of defined expressions)(91) is amended as follows.

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

“Audit Regulation	section 1261(1)”
“audit working papers and investigation reports	section 1261(1)”
“competent authority	section 1261(1)”

(3) Omit the entry relating to “audit working papers”.

**53.** Schedule 10 (recognised supervisory bodies) is amended as follows.

**54.**—(1) Paragraph 2 is amended as follows.

(2) For sub-paragraph (2) substitute—

“(2) The Secretary of State may make a recognition order only if it appears to him, from the information furnished by the body and having regard to other information in his possession, that—

- (a) the requirements of Part 2 of this Schedule are satisfied in the case of that body,
- (b) the body is able to perform all of the tasks which can be delegated by the competent authority under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016, and
- (c) the body is organised in such a way that conflicts of interest are avoided.”.

**55.**—(1) Paragraph 3 is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) A recognition order in respect of a body may be revoked by a further order made by the Secretary of State if at any time it appears to him—

- (a) that any requirement of Part 2 or 3 of this Schedule, other than a requirement relating to a task delegated to the body under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016, is not satisfied in the case of the body,
- (b) that the body has failed to comply with any obligation imposed on it by or by virtue of this Part of this Act, other than an obligation relating to a task delegated to

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(91) Section 1262 was amended by [S.I. 2007/3494](#).

the body under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016, or

(c) that the continued recognition of the body is undesirable having regard to the existence of one or more other bodies which have been or are to be recognised.”.

(3) After subparagraph (1), insert—

“(1A) A recognition order in respect of a body may be revoked by a further order made by the Secretary of State if at any time—

(a) one or more tasks delegated to the body under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016 has been reclaimed by the competent authority, and

(b) it appears to the Secretary of State that the continued recognition of the body is undesirable having regard to the circumstances in which the task or tasks were reclaimed.”.

(4) In sub-paragraph (10)(a), after “(1)” insert “, (1A)”.

56. In Part 2, before paragraph 6, insert—

**“Delegation etc. of tasks by competent authority**

5A. The body (“B”) must have rules providing that—

(a) in circumstances where and to the extent that a task delegated to the body is reclaimed by the competent authority under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016, the competent authority may apply rules (and may vary the rules it applies) made by B in accordance with the requirements of this Part of this Schedule,

(b) in circumstances where and to the extent that a task delegated to B is reclaimed by the competent authority under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016 and is delegated to another recognised supervisory body, the other recognised supervisory body may apply rules (and may vary the rules it applies) made by B in accordance with the requirements of this Part of the Schedule, and

(c) in circumstances where and to the extent that a task is not delegated to B by the competent authority under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016, the competent authority may apply rules (and may vary the rules it applies) made by B in accordance with the requirements of paragraphs 12 to 16 of this Schedule.

**Consultation**

5B. The body must consult with the competent authority and with other recognised supervisory bodies in making or varying rules in accordance with the requirements of this Schedule.”.

57.—(1) Paragraph 6 is amended as follows.

(2) In sub-paragraph (1) for paragraph (aa)(iii), substitute—

“(iii) he meets the requirements of sub-paragraph (1A).”.

(3) In sub-paragraph (1)(b), after “case of a firm” insert “which is not an EEA auditor”.

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

“(c) in the case of a firm which is an EEA auditor—

- (i) each individual responsible for statutory audit work on behalf of the firm is eligible for appointment as a statutory auditor,
  - (ii) the firm would be eligible for appointment as a statutory auditor if it were not an EEA auditor or is eligible for a corresponding appointment as an auditor under the law of an EEA State or part of an EEA State, other than the United Kingdom, and
  - (iii) if the firm is eligible for a corresponding appointment as an auditor under the law of an EEA State or part of an EEA State other than the United Kingdom, the firm provides proof of its eligibility in the form of a certificate, dated not more than three months before it is provided by the firm, from the competent authority of the EEA State concerned.”.
- (5) After sub-paragraph (1) insert—
- “(1A) The requirements of this sub-paragraph are that the individual—
- (a) already holds a professional qualification which covers all the subjects which are covered by a recognised professional qualification and which are subjects of which knowledge is essential for the pursuit of the profession of statutory auditor, or
  - (b) holds a professional qualification which does not cover all those subjects and has met whichever of the requirements of sub-paragraph (1B) is specified in the body’s rules.
- (1B) The body’s rules must specify that the condition in sub-paragraph (1A)(b) is satisfied in one of the following ways—
- (a) only by passing an aptitude test in accordance with sub-paragraph (2),
  - (b) only by completing an adaptation period in accordance with sub-paragraphs (2B) and (2C), or
  - (c) either by passing an aptitude test in accordance with sub-paragraph (2) or by completing an adaptation period in accordance with sub-paragraphs (2B) and (2C), according to the choice of the individual.”.
- (6) Omit sub-paragraph (2A).
- (7) Before sub-paragraph (3) insert—
- “(2B) An adaptation period is a period, not exceeding three years, in which the individual (“the applicant”) pursues the profession of statutory auditor under the supervision of an individual who holds an appropriate qualification, subject to an assessment (“the ability assessment”) of the applicant’s ability to pursue the profession of statutory auditor in the United Kingdom.
- (2C) Where the body’s rules specify that the condition in sub-paragraph (1B)(b) can be satisfied by completing an adaptation period—
- (a) the body must have rules governing the adaptation period and the ability assessment, having regard to the circumstances of each applicant and, in particular, to the fact that each applicant is a qualified professional in another EEA State,
  - (b) the applicant may be required to undergo further training during the adaptation period,
  - (c) the applicant’s performance during the adaptation period must be assessed by the body, and
  - (d) the body must determine the applicant’s professional status during the adaptation period.”.

**58.**—(1) Paragraph 9 is amended as follows.

(2) In sub-paragraph (1)(c) for “from any significant threats to it” substitute “in accordance with the standards mentioned in sub-paragraph (3A)”.

(3) In sub-paragraph (1)(d), for the words after “record” substitute “ the matters required to be recorded in accordance with those standards.”

(4) Omit sub-paragraph (1)(e).

(5) After sub-paragraph (1) insert—

“(1A) The body must have adequate rules and practices designed to ensure that, except where the audited person is a public interest entity—

(a) an individual who has been appointed as statutory auditor may not be appointed as a director or other officer of the audited person or be concerned in the management of the audited person during a period of not less than one year determined in standards set by the competent authority and commencing on the date on which the individual’s appointment as a statutory auditor ended;

(b) a key audit partner of a firm which has been appointed as statutory auditor may not be appointed as a director or other officer of the audited person or be concerned in the management of the audited person during a period of not less than one year to be determined in standards set by the competent authority and commencing on the date on which the firm’s appointment as a statutory auditor ended.”.

(6) Omit sub-paragraph (2).

(7) In sub-paragraph (3), omit paragraphs (a) and (c) and the “and” at the end of paragraph (b).

(8) After sub-paragraph (3) insert—

“(3A) The rules and practices mentioned in sub-paragraphs (1) and (3) must include provision requiring compliance with standards for the time being determined by the competent authority under the Statutory Auditors and Third Country Auditors Regulations 2016.”.

(9) In sub-paragraph (4), for “sub-paragraph (3)(b) (confidentiality of information)” substitute “sub-paragraphs (1A) and (3)(b)”.

(10) After sub-paragraph (4) insert—

“(5) An auditor is not to be regarded as an officer of the audited person for the purposes of sub-paragraph (1A) (a) and (b).”.

**59.**—(1) Paragraph 10 is amended as follows.

(2) For sub-paragraph (2) substitute—

“(2) The rules and practices mentioned in sub-paragraph (1) must include provision requiring compliance with any standards for the time being determined by the competent authority under the Statutory Auditors and Third Country Auditors Regulations 2016.”.

**60.**—(1) Paragraph 10A is amended as follows.

(2) For sub-paragraph (2) substitute—

“(2) The rules and practices mentioned in sub-paragraph (1) must include provision requiring compliance with any standards for the time being determined by the competent authority under the Statutory Auditors and Third Country Auditors Regulations 2016.”.

(3) For sub-paragraph (3) substitute—

“(3) The body must have rules and practices ensuring that group auditors retain copies of any documents necessary for the purposes of any review in accordance with those standards.”.

(4) Omit sub-paragraphs (4) to (6).

**61.** Omit paragraph 10B.

**62.**—(1) Paragraph 10C is amended as follows.

(2) Omit sub-paragraphs (1) and (2).

(3) For sub-paragraph (3) substitute—

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

(a) an individual who has been appointed as statutory auditor of a public interest entity may not be appointed as a director or other officer of the entity or be concerned in the management of the entity during a period of not less than two years to be determined in standards set by the competent authority and commencing on the date on which the individual’s appointment as statutory auditor ended;

(b) a key audit partner of a firm which has been appointed as statutory auditor of a public interest entity may not be appointed as a director or other officer or be concerned in the management of the entity during a period of not less than two years to be determined in standards set by the competent authority and commencing on the date on which the firm’s appointment as statutory auditor ended.”.

(4) Omit sub-paragraph (6).

**63.** For paragraph 11 substitute—

“**11.** The body must have rules and practices designed to ensure that persons eligible for appointment as statutory auditors take part in appropriate programmes of continuing education in order to maintain their theoretical knowledge, professional skills and values at a sufficiently high level.”.

**64.**—(1) Paragraph 12 is amended as follows.

(2) For sub-paragraph (2) substitute—

“(2) The arrangements for monitoring must make provision for that function to be performed by the competent authority or any body to whom that authority has delegated tasks in accordance with regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016.”.

(3) For sub-paragraph (3) substitute—

“(3) The arrangements for enforcement must—

(a) make provision for that function to be performed by the competent authority or any body to whom that authority has delegated tasks in accordance with regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016;

(b) include provision for sanctions which include—

(i) the withdrawal of eligibility for appointment as a statutory auditor;

(ii) a notice requiring the person responsible for any breach to cease the conduct amounting to a breach and to abstain from repeating such conduct;

- (iii) a public statement identifying the person responsible for any breach and the nature of the breach (which may take the form of a reprimand or a severe reprimand);
  - (iv) a temporary prohibition preventing a person responsible for any breach from carrying out statutory audits or signing audit reports;
  - (v) a temporary prohibition of up to three years preventing a person responsible for any breach from exercising specified functions in a firm that is eligible for appointment as a statutory auditor or in a public interest entity;
  - (vi) a declaration that the audit report does not satisfy the audit reporting requirements and, where appropriate, a declaration as to the proportion of the audit fee that is not payable as a result;
  - (vii) an appropriate financial penalty;
  - (viii) a requirement to take action to mitigate the effect or prevent the recurrence of the contravention;
  - (ix) exclusion from membership of the body; and
  - (c) include provision for the body to make available to the public information relating to the steps it has taken to ensure the effective enforcement of its rules.”.
- (4) After sub-paragraph (3) insert—
- “(4) The sanctions referred to in sub-paragraph (3)(b)(v) must apply to persons who are no longer members of the body as they apply to members.
- (5) The information to be made available to the public under sub-paragraph (3)(c) must include the following information (which the body must continue to make available in accordance with sub-paragraph (7)) in relation to sanctions the body imposes—
- (a) information concerning the type of contravention and its nature;
  - (b) the identity of the person sanctioned, unless any of the circumstances mentioned in sub-paragraph (6) applies; and
  - (c) where a sanction is subject to appeal, information concerning the status and outcome of any appeal.
- (6) The circumstances in which the identity of the person sanctioned must not be made available to the public are—
- (a) where that person is an individual and the body considers the publication of personal data would be disproportionate;
  - (b) where publication would jeopardise the stability of financial markets;
  - (c) where publication would jeopardise an ongoing criminal investigation; and
  - (d) where publication would cause disproportionate damage to any institution or individual involved.
- (7) Information in relation to sanctions mentioned in sub-paragraph (3) must continue to be made available for a proportionate period and must be published on the body’s website for at least five years after the relevant date.
- (8) In sub-paragraph (7), “the relevant date” means—
- (a) where the body imposes a sanction and that decision is appealed, the date on which the appeal is determined;
  - (b) where the body imposes a sanction and that decision is not appealed, the date by which any appeal was required to be lodged.”.

65. For paragraphs 13 and 14 substitute—

## “Monitoring of audits

### 13.—(1) The body must—

- (a) have adequate arrangements for enabling the performance by its members of statutory audit functions to be monitored by means of inspections, where functions relating to the monitoring of the audits are the subject of a delegation of tasks to the body under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016;
- (b) in the case of members of the body who perform any statutory audit functions in respect of audits where functions relating to the monitoring of the audits are not the subject of such a delegation—
  - (i) have arrangements for the monitoring of those audits by the competent authority in accordance with those Regulations and, in respect of public interest entities, Article 26 of the EU Audit Regulation; and
  - (ii) have rules and practices designed to ensure that a sanction imposed by the competent authority in accordance with those Regulations is to be treated as if it were a sanction which the body had determined under arrangements for enforcement within paragraph 12;
- (c) in the case of members of the body who perform any third country audit functions—
  - (i) have arrangements for the monitoring of those audits by the competent authority in accordance with the Statutory Auditors and Third Country Auditors Regulations 2016; and
  - (ii) have rules and practices designed to ensure that a sanction imposed by the competent authority in accordance with those Regulations is to be treated as if it were a sanction which the body had determined under arrangements for enforcement within paragraph 12; and
- (d) 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 or third country audit functions to be monitored by means of inspections.

(2) Any monitoring of members of the body under the Statutory Auditors and Third Country Auditors Regulations 2016 or Article 26 of the EU Audit Regulation is to be regarded (so far as their performance of statutory audit functions, or of third country audit functions, 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—

- (a) make provision for inspections to be conducted by the competent authority or any recognised supervisory body to whom that authority has delegated tasks in accordance with regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016; and
- (b) include an inspection which is conducted in relation to each person eligible for appointment as a statutory auditor—
  - (i) at such frequency as the body considers appropriate given the risks arising from the statutory audit work undertaken by the person eligible for appointment as a statutory auditor; and
  - (ii) at least once every six years in the case of a person who, during any of the previous five years, has carried out a statutory audit of an entity not subject to the small companies regime (see section 381).



(4) The arrangements must provide that the determination by the body of the frequency of inspections under sub-paragraph (3)(b)(i) is subject to any direction by the competent authority.

(5) 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) have declared that they do not have any interests likely to conflict with the proper conduct of the inspection;
- (e) have not been an employee or partner or member of the management body of the person subject to inspection and have not been otherwise associated with that person for at least three years before the inspection.

(6) The inspection must review one or more statutory audits in which the person to whom the inspection relates has participated.

(7) The inspection must include an assessment of—

- (a) the person's compliance with the standards set by the competent authority under the Statutory Auditors and Third Country Auditors Regulations 2016;
- (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.

(8) The inspection must be appropriate and proportionate in view of the scale and complexity of the statutory audit work of the person subject to inspection.

(9) Where undertaking inspections of statutory audits of undertakings that qualify as small (see sections 382 and 383) or medium sized (see sections 465 and 466) the body must take account of the fact that the standards determined by the competent authority under the Statutory Auditors and Third Country Auditors Regulations 2016 are designed to be applied in a manner that is proportionate to the scale and complexity of the business of the audited person.

(10) 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.

(11) 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.

(12) 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.

### **Membership, eligibility and enforcement**

14. The rules and practices of the body relating to—

- (a) the admission and expulsion of members,

- (b) the grant and withdrawal of eligibility for appointment as a statutory auditor by the body, where this task has been delegated to the body by the competent authority under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016, and
- (c) the enforcement action the body takes in respect of its members, where tasks related to the competent authority’s responsibility for imposing and enforcing sanctions have been delegated to the body under that regulation,

must be fair and reasonable and include adequate provision for appeals.”.

**66.**—(1) Paragraph 15 is amended as follows.

(2) For sub-paragraph (2) substitute—

“(2) The arrangements mentioned in sub-paragraph (1) must make provision for the whole or part of the function of investigating those complaints to be performed by the competent authority under the Statutory Auditors and Third Country Auditors Regulations 2016.”.

**67.** For paragraph 16 substitute—

**“Independent investigation for enforcement purposes**

**16.**—(1) The body must have rules and practices designed to ensure that, where the competent authority has decided that any particular enforcement action should be taken against a member of the body following the conclusion of an investigation under the Statutory Auditors and Third Country Auditors Regulations 2016, that decision is to be treated as if it were a decision made by the body in enforcement proceedings against the member.

(2) The body must have adequate arrangements as part of its rules and practices—

- (a) to facilitate the conduct of investigations into non-delegated cases by the competent authority in connection with the performance of statutory audit functions or third country audit functions by members of the body;
- (b) for the holding by the competent authority of hearings relating to members of the body in accordance with the Statutory Auditors and Third Country Auditors Regulations 2016, where necessary following those investigations; and
- (c) for making decisions by the competent authority following those investigations as to whether (and, if so, what) enforcement action should be taken against members of the body.

(3) “Non-delegated cases” means matters relating to tasks which have not been delegated to the body by the competent authority under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016.”.

**68.**—(1) Paragraph 16A is amended as follows.

(2) For the words “audit working papers”, wherever they appear, substitute “audit working papers and investigation reports”.

**69.**—(1) Paragraph 16AB is amended as follows.

(2) For the words “audit working papers”, wherever they appear, substitute “audit working papers and investigation reports”.

**70.** After paragraph 20 insert—

### “Supplementary: funding of arrangements

**20ZA.**—(1) This paragraph applies where, under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016, the competent authority has delegated the task of approving persons as eligible for appointment as statutory auditors to a body (“B”).

(2) B must pay the costs incurred by—

- (a) the competent authority in carrying out activities mentioned in paragraphs 9 to 10C, 12, 13 and 16, or
- (b) another recognised supervisory body, in carrying out those activities as a result of the competent authority delegating a task to the other body,

in relation to any statutory auditor bound by B’s rules.”.

71. For paragraph 20A substitute—

### “Interpretation

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

“audit reporting requirements” has the meaning given by regulation 2 of the Statutory Auditors and Third Country Auditors Regulations 2016 as amended from time to time;

“issuer” has the same meaning as in Part 6 of the Financial Services and Markets Act 2000 (see section 102A(6));

“key audit partner” means—

- (a) the statutory auditor designated by an audit firm for a particular audit engagement as being primarily responsible for carrying out the statutory audit on behalf of the audit firm; or
- (b) in the case of a group audit, the statutory auditor designated by an audit firm as being primarily responsible for carrying out the statutory audit at the level of the group and the statutory auditor designated as being primarily responsible at the level of material subsidiaries; or
- (c) the statutory auditor who signs the audit report.

“public interest entity” means—

- (a) an issuer whose transferable securities are admitted to trading on a regulated market;
- (b) a credit institution within the meaning given by Article 4(1)(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council, other than one listed in Article 2 of [Directive 2013/36/EU](#) of the European Parliament and of the Council on access to the activity of credit institutions and investment firms;
- (c) an insurance undertaking within the meaning given by Article 2(1) of Council Directive [1991/674/EEC](#) of the European Parliament and of the Council on the annual accounts and consolidated accounts of insurance undertakings,

“regulated market” has the same meaning as in Part 6 of the Financial Services and Markets Act 2000 (see section 103(1));

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

“third country audit function” means any function related to the audit of a UK-traded non-EEA company or of an equivalent body corporate whose transferable securities are admitted to trading on a regulated market situated or operating in another EEA state; 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.”.

72. Part 3 is repealed.

73.—(1) Schedule 11A (specified persons, descriptions, disclosures etc for the purposes of section 1224A) is amended as follows.

(2) For paragraph 16 substitute—

“16. The competent authority.”.

(3) In paragraph 80, for the words “audit working papers” in both places where they appear substitute “audit working papers and investigation reports”.

## SCHEDULE 4

Regulation 16

### Amendments to Part 8 of the Building Societies Act 1986

## PART 1

### Introductory

1. In this Schedule—

- (a) a reference to a numbered section is a reference to that section of Building Societies Act 1986; and
- (b) a reference to a numbered Schedule is a reference to that Schedule to that Act.

## PART 2

### Amendments to Part 8 of the Building Societies Act 1986

2. Part 8 of the Building Societies Act 1986 is amended as follows.

3. In section 78 (auditor’s report)(92)—

- (a) in subsection (1), before “report” insert “written”;
- (b) for subsections (3A) to (4A) substitute—
  - “(3A) The auditor’s report must include—
  - (a) the identity of the building society whose annual accounts are the subject of the audit,
  - (b) a description of the annual accounts that are the subject of the audit (including the period covered by those accounts),
  - (c) a description of the financial reporting framework that has been applied in the preparation of those accounts, and
  - (d) a description of the scope of the audit identifying the auditing standards in accordance with which the audit was conducted.

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(92) Section 78 was amended by paragraphs 1 and 7 of Schedule 9 to the Financial Services (Banking Reform) Act 2013 (c. 33) and by [S.I. 1995/3233](#), [2004/3380](#), [2008/1519](#).

- (4) The report must clearly state the opinion of the auditor as to—
  - (a) whether the annual accounts have been properly prepared in accordance with the requirements of this Act (and, where applicable, Article 4 of the IAS Regulation), and
  - (b) in particular whether the annual accounts give a true and fair view in accordance with the relevant financial reporting framework—
    - (i) in the case of an individual balance sheet, of the state of affairs of the society as at the end of the financial year,
    - (ii) in the case of an individual income and expenditure account, of the income and expenditure of the society for the financial year, and
    - (iii) in the case of group accounts, of the state of affairs as at the end of the financial year and the income and expenditure for the financial year of the society and the subsidiary undertakings dealt with in the group accounts, so far as concerns members of the society.
- (4A) The auditor’s opinion must—
  - (a) be either unqualified or qualified,
  - (b) include a reference to any matters to which the auditor wishes to draw attention by way of emphasis without qualifying the audit opinion,
  - (c) include a statement on any material uncertainty relating to events or conditions that may cast significant doubt about the building society’s ability to continue as a going concern, and
  - (d) identify the auditor’s place of establishment.”;
- (c) in subsection (6), after “subsection (4)” insert “(b)”;
- (d) for subsection (7) substitute—

“(7) The auditor’s report, in so far as it deals with the documents specified in subsection (3) above, must—

  - (a) state whether, in his opinion, based on the work undertaken in the course of the audit—
    - (i) the documents have been prepared so as to conform to the requirements of, or made under, sections 74 and 75 respectively,
    - (ii) the information given in the annual business statement gives a true representation of the matters in respect of which it is given, and
    - (iii) the information given in the directors’ report for the financial year for which the accounts are prepared is consistent with those accounts,
  - (b) state whether, in the light of the knowledge and understanding of the building society and its environment obtained in the course of the audit, the auditor has identified material misstatements in the directors’ report, and
  - (c) if applicable, give an indication of the nature of each of the misstatements referred to in paragraph (b).”;
- (e) after subsection (10) insert—

“(11) Where more than one person is appointed as an auditor—

  - (a) all the persons appointed must jointly make a report under this section and the report must include a statement as to whether all the persons appointed agree—
    - (i) on the matters contained in the report, and

- (ii) on the statements and indications given under subsection (7); and
- (b) if all the persons appointed cannot agree on—
- (i) the matters contained in the report, or
- (ii) on the statements and indications given under subsection (7),
- the report must include the opinions of each person appointed and give reasons for the disagreement.”.
4. In section 78A (signature of auditor’s report)(**93**)—
- (a) in subsection (1), after “the auditor” insert “(or, where more than one person is appointed as auditor, all of their names)”; and
- (b) after subsection (2) insert—
- “(2A) Where more than one person is appointed as auditor, the report must be signed by all of them.”.
5. After section 78C(1) (names to be stated in copies of auditor’s report filed or published)(**94**) insert—
- “(1A) If more than one individual is appointed as auditor, the reference in subsection (1) (a) to the name of the auditor is to be read as a reference to the names of all the auditors.”.
6. At the beginning of section 78D(1) (circumstances in which names may be omitted)(**95**), for “The” substitute “An”.
7. In subsection 79 (auditor’s duties and powers)(**96**)—
- (a) for subsection (2) substitute—
- “(2) If the auditor is of the opinion that—
- (a) proper accounting records have not been kept under section 71, or
- (b) the annual accounts are not in agreement with the accounting records,
- the auditor must state that fact in his report.”; and
- (b) after subsection (6) insert—
- “(6A) Where more than one person is appointed as auditor, the report must include a statement as to whether all the persons appointed agree on any statements given under subsections (2) and (6) and, if they cannot agree on those statements, the report must include the opinions of each person appointed and give reasons for the disagreement.”.
8. In Schedule 11—
- (a) after paragraph 3 insert—
- “**3A.**—(1) Any term in a contract which, in relation to the conduct of an audit of a building society, has the effect of restricting the general meeting of the building society’s choice of auditor to certain categories or lists of auditors has no effect.
- (2) If a third party attempts to impose a contractual clause of the kind mentioned in subparagraph (1), or to improperly influence the decision of a general meeting of the building society on the selection of an auditor, the directors of the building society must inform the competent authority without delay.

(93) Section 78A was inserted by [S.I. 2004/3380](#) and then substituted by [S.I. 2008/1519](#).

(94) Section 78C was inserted by [S.I. 2004/3380](#) and then substituted by [S.I. 2008/1519](#); it was amended by [S.I. 2013/496](#).

(95) Section 78D was inserted by [S.I. 2004/3380](#) and then substituted by [S.I. 2008/1519](#); it was amended by [S.I. 2013/496](#).

(96) Section 79 was amended by paragraph 34 of Schedule 7, and Schedule 9, to the Building Societies Act 1997 (c. 32) and by [S.I. 2001/2617](#) and [2008/1519](#).

**3B.**—(1) This paragraph applies to the appointment of an auditor or auditors under section 77, where the building society has an audit committee.

(2) Before an appointment to which this paragraph applies is made—

- (a) the audit committee of the building society must make a recommendation to the directors in connection with the appointment, and
- (b) the directors must propose an auditor or auditors for appointment, including the following information in the proposal—
  - (i) the recommendation made by the audit committee in connection with the appointment, or
  - (ii) if the directors' proposal departs from the preference of the audit committee, the reasons for not following the recommendation.

(3) Before the audit committee makes a recommendation or the directors make a proposal under sub-paragraph (2), the committee or directors must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation.

(4) The audit committee must in its recommendation—

- (a) identify its first and second choice candidates for appointment,
- (b) give reasons for the choices so identified,
- (c) state that—
  - (i) the recommendation is free from influence by a third party, and
  - (ii) no contractual term of the kind mentioned in paragraph 3A has been imposed on the building society.

(5) Sub-paragraphs (3) and (4) do not apply in relation to a recommendation or proposal for appointment of an auditor or auditors for a financial year (“the relevant financial year”)

- (a) if the relevant financial year begins during a transitional period mentioned in sub-paragraph (6); or
- (b) if—
  - (i) a selection procedure mentioned in sub-paragraph (7) has been carried out in respect of the appointment of the auditor or auditors in relation to a financial year beginning less than ten years before the first day of the relevant financial year; and
  - (ii) the auditor or auditors were appointed for the financial year before the relevant financial year.

(6) The transitional periods are—

- (a) in the case of an auditor who was first appointed for a financial year beginning before 17th June 1994 and who continues to hold office on 17th June 2016, the period which begins on 17th June 2016 and ends on the day before the first day of the first financial year of the building society that begins on or after 17th June 2020;
- (b) in the case of an auditor who was first appointed for a financial year beginning on or after 17th June 1994 and before 17th June 2003 and who continues to hold office on 17th June 2016, the period which begins on 17th June 2016 and ends on the day before the first day of the first financial year of the building society that begins on or after 17th June 2023.

(7) The selection procedures are—

- (a) a selection procedure which is in accordance with sub-paragraphs (3) and (4);
- (b) a selection procedure which substantially meets the requirements of Article 16(2) to (5) of the Audit Regulation, having regard to the circumstances at the time (including whether the building society had an audit committee), which was carried out in relation to a financial year which began before 17th June 2016.

**3C.—**(1) This paragraph applies to the appointment of an auditor or auditors under section 77, where the building society does not have an audit committee.

(2) Before an appointment to which this paragraph applies is made the directors must propose an auditor or auditors for appointment.

(3) Before the directors make a proposal under sub-paragraph (2), they must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation.

(4) Sub-paragraph (3) does not apply in relation to a proposal for appointment of an auditor or auditors for a financial year (“the relevant financial year”)—

- (a) if the relevant financial year begins during a transitional period mentioned in sub-paragraph (5); or
- (b) if—
  - (i) a selection procedure mentioned in sub-paragraph (6) has been carried out in respect of the appointment of the auditor or auditors in relation to a financial year beginning less than ten years before the first day of the relevant financial year; and
  - (ii) the auditor or auditors were appointed for the financial year before the relevant financial year.

(5) The transitional periods are—

- (a) in the case of an auditor who was first appointed in respect of a financial year beginning before 17th June 1994 and who continues to hold office on 17th June 2016, the period which begins on 17th June 2016 and ends on the day before the first day of the first financial year of the building society that begins on or after 17th June 2020;
- (b) in the case of an auditor who was first appointed in respect of a financial year beginning on or after 17th June 1994 and before 17th June 2003 and who continues to hold office on 17th June 2016, the period which begins on 17th June 2016 and ends on the day before the first day of the first financial year of the building society that begins on or after 17th June 2023.

(6) The selection procedures are—

- (a) a selection procedure which is in accordance with sub-paragraph (4);
- (b) a selection procedure which substantially meets the requirements of Article 16(2) to (5) of the Audit Regulation, having regard to the circumstances at the time (including whether the company had an audit committee), which was carried out in relation to a financial year which began before 17th June 2016.”?;

(b) before paragraph 6 insert—

*“Tenure*

**5A.—**(1) The terms of appointment of an auditor or auditors are subject to the requirement that the auditor or auditors cease to hold office at the conclusion of the annual



general meeting in respect of the first complete financial year that follows the expiry of the maximum engagement period.

(2) In this paragraph—

“the maximum engagement period” means, subject to sub-paragraph (3) and paragraph 5B (which makes transitional provision in relation to auditors appointed before 17th June 2016), whichever of the following periods is longest—

- (a) the period of ten years beginning with the first day of the first financial year in respect of which the auditor was appointed,
- (b) the period of twenty years beginning with the first day of the first financial year in respect of which the auditor was appointed, if the selection requirements are satisfied for at least one financial year which begins every ten years in that period, or
- (c) such other period of no more than twenty years beginning with the first day of the first financial year in respect of which the auditor was appointed and ending on the last day of the relevant ten year period;

“the relevant ten year period” means the period of ten years beginning with the first day of the last financial year—

- (a) which begins within ten years of the first day of the first financial year in respect of which the auditor was appointed, and
- (b) in respect of which the auditor was reappointed following the carrying out of a selection procedure in accordance with the selection requirements; and

“the selection requirements” means—

- (a) the requirements of paragraph 3B(3) and (4) if the building society has an audit committee, or
- (b) the requirements of paragraph 3C(3) if the building society does not have an audit committee.

(3) The maximum engagement period may be extended by a period of up to two years with the approval of the competent authority, provided that—

- (a) in a case where the period within paragraph (a) of the definition of “the maximum engagement period” is being extended, the appointment of the auditor for the first complete financial year following the end of that period is made following the carrying out of a selection procedure in accordance with the selection requirements; and
- (b) in all cases, the competent authority is satisfied that exceptional circumstances exist.

(4) An auditor is ineligible for appointment as auditor if—

- (a) within the four years preceding the start of the financial year to which that appointment relates the auditor has ceased by virtue of sub-paragraph (1) to hold office as auditor of that building society, or
- (b) the auditor is a member of the same network as an auditor who within the four years preceding the start of the financial year to which that appointment relates has ceased by virtue of that sub-paragraph to hold office as auditor of that building society.

(5) In this paragraph, “network” means an association of persons other than a firm co-operating 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 name.

#### **Maximum engagement period: transitional arrangements**

**5B.—**(1) In the case of an auditor who was first appointed in respect of a financial year beginning before 17th June 1994 and who continues to hold office on 17th June 2016, “the maximum engagement period” means the period ending on the day before the first day of the first financial year of the building society that begins on or after 17th June 2020.

(2) In the case of an auditor who was first appointed in respect of a financial year beginning on or after 17th June 1994 and before 17th June 2003 and who continues to hold office on 17th June 2016, “the maximum engagement period” means the period ending on the day before the first day of the first financial year of the building society that begins on or after 17th June 2023.

(3) In the case of an auditor who was first appointed in respect of a financial year beginning on or after 17th June 2003 and before 17th June 2016 and who continues to hold office on 17th June 2016, “the maximum engagement period” means whichever of the following periods is longest—

- (a) the period ending on whichever is the later of—
  - (i) the day before the first day of the first financial year of the building society that begins on or after 17th June 2016;
  - (ii) the last day of the period of ten years beginning with the first day of the first financial year of the building society in respect of which the auditor was appointed.
- (b) the period of twenty years beginning with the first day of the first financial year in respect of which the auditor was appointed, if the selection requirements are satisfied for at least one financial year which begins every ten years in the period beginning on 17th June 2007, or
- (c) such other period of no more than twenty years beginning with the first day of the first financial year in respect of which the auditor was appointed and ending on the last day of the relevant ten year period.

(4) In this paragraph—

“the relevant ten year period” means the period of ten years beginning with the first day of the last financial year—

- (a) which begins either within ten years of the first day of the first financial year in respect of which the auditor was appointed or if later, on or before 16th June 2017, and
- (b) in respect of which the auditor was reappointed following the carrying out of a selection procedure in accordance with the selection requirements;

“the selection requirements” means—

- (a) in relation to a financial year beginning on or after 17th June 2016—
  - (i) the requirements of paragraph 3B(3) and (4) if the building society has an audit committee, or

- (ii) the requirements of paragraph 3C(3) if the building society does not have an audit committee,
  - (b) in relation to a financial year beginning before 17th June 2016, the requirement that the building society carries out a tender process which substantially meets the requirements of Article 16(2) to (5) of the Audit Regulation, having regard to the circumstances at the time (including whether the building society had an audit committee).
- (5) The maximum engagement period may be extended by a period of up to two years with the approval of the competent authority, provided that—
  - (a) in a case where the period under sub-paragraph (3)(a) is being extended, the appointment of the auditor for the first complete financial year following the end of that period is made following the carrying out of a selection procedure in accordance with the selection requirements; and
  - (b) in all cases, the competent authority is satisfied that exceptional circumstances exist.”;
- (c) after paragraph 6(4) insert—

“(5) An auditor may not be removed from office before the expiration of that auditor’s term of office except—

  - (a) by resolution under this paragraph, or
  - (b) in accordance with paragraph 6ZA.”;
- (d) after paragraph 6 insert—

**“Application to court to remove auditor from office**

**6ZA.—**(1) The competent authority may apply to the High Court for an order removing an auditor of a building society from office if the authority considers that there are proper grounds for removing the auditor from office.

(2) The members of a building society may apply to the High Court for an order removing an auditor of the building society from office if the applicant or applicants consider that there are proper grounds for removing the auditor from office.

(3) If the court is satisfied, on hearing an application under sub-paragraph (1), that there are proper grounds for removing the auditor from office, it may make an order removing the auditor from office.

(4) If the court is satisfied, on hearing an application under sub-paragraph (2), that—

- (a) the applicants represent in total—
  - (i) not less than 5% of the voting rights of all the members having a right to vote at a general meeting of the building society, or
  - (ii) not less than 5% in nominal value of the amount standing to the credit of shares in a building society as shown by the latest balance sheet, and
- (b) there are proper grounds for removing the auditor from office,

the court may make an order removing the auditor from office.

(5) For the purposes of this paragraph, divergence of opinions on accounting treatments or audit procedures are not to be taken to be proper grounds for removing an auditor from office.”;

- (e) in paragraph 6A(1)(97), after “removed from office” insert “, other than by order of the High Court made under paragraph 6ZA,”;
- (f) for the heading to paragraph 8C(98) substitute “Interpretation”;
- (g) for paragraph 8C substitute—

“8C. In this Schedule—

“appropriate audit authority” means—

- (a) the Secretary of State, or
- (b) if the Secretary of State has delegated functions under section 1252 of the Companies Act 2006(99) to a body whose functions include receiving the equivalent notice under section 522(100) or 523(101) of that Act, that body;

“audit committee” means a body which performs the functions referred to in Article 39(6) of [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](#), or equivalent functions;

“Audit Regulation” means Regulation 537/2014 of the European Parliament and of the Council on specific requirements regarding statutory audit of public interest entities and repealing Commission [Decision 2005/989/EC](#); and

“competent authority” means the Financial Reporting Council Limited(102).”.

## SCHEDULE 5

Regulation 17

### Amendments to other enactments

#### **Amendments to Part 1 of the Companies (Audit, Investigations and Community Enterprise) Act 2004**

1.—(1) Part 1 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 is amended as follows.

(2) In section 15D(4) (permitted disclosure of information obtained under compulsory powers)—

(a) for paragraph (aa) substitute—

“(aa) for the purposes of facilitating—

- (i) the carrying out of inspections under paragraph 1 of Schedule 12 to the Companies Act 2006 (arrangements for independent monitoring of audits of UK-traded non-EEA companies); or
- (ii) the carrying out of investigations under paragraph 2 of that Schedule (arrangements for independent investigations for disciplinary purposes).”;

(b) after paragraph (aa) insert—

“(ab) for the purposes of enabling the competent authority to exercise its functions under the Statutory Auditors and Third Country

(97) Paragraph 6A was inserted by [S.I. 2008/1519](#).

(98) Paragraph 8C was inserted by [S.I. 2008/1519](#).

(99) [2006 c. 46](#).

(100) Section 522 was amended by [S.I. 2015/1732](#).

(101) Section 523 was amended by section 18 of the Deregulation Act 2015.

(102) A company registered in England and Wales with number 02486368.

Auditors Regulations 2016 or under Regulation (EU) 537/2014 on specific requirements regarding statutory audit of public interest entities;”.

(3) In section 16(2) (grants to bodies concerned with accounting standards etc), after paragraph (e) insert—

“(ea) exercising the functions of the competent authority under the Statutory Auditors and Third Country Auditors Regulations 2016 and under Regulation (EU) 537/2014 on specific requirements regarding statutory audit of public interest entities;”.

#### **Amendments to Schedule 5 to the Local Audit and Accountability Act 2014**

2.—(1) The Local Audit and Accountability Act 2014(**103**) is amended as follows.

(2) In Schedule 5, for paragraph 1(3), substitute—

“(3) The reference in sub-paragraph (1) to Part 42 of the Companies Act 2006—

- (a) includes sections 1288, 1289, 1290 and 1292 of that Act (regulations and orders) as they apply in relation to that Part;
- (b) does not include the amendments made to that Part by the Statutory Auditors and Third Country Auditors Regulations 2016.”

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### **EXPLANATORY NOTE**

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

These Regulations implement obligations in [Directive 2014/56/EU](#) of the European Parliament and of the Council of 16 April 2014 amending [Directive 2006/43/EC](#) on statutory audits of annual accounts and consolidated accounts(**104**) and Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission [Decision 2005/909/EC](#)(**105**) (“the Audit Regulation”). The amended [Directive 2006/43/EC](#) is known as “the Audit Directive”. The Audit Regulation is directly applicable, but changes have been made to domestic law to remove inconsistencies between domestic law and the Audit Regulation.

Section 1210 of the Companies Act 2006 (c. 46) sets out what statutory auditor means in relation to Part 42 of that Act. A statutory auditor is a person appointed as auditor under the legislative provisions specified in section 1210 (including a person appointed as auditor of a prescribed person under a prescribed enactment authorising or requiring the appointment, see section 1210(1)(h)). In Part 42 of that Act, an audited person is the person in respect of whom a statutory audit is conducted (section 1210(2)), and a range of audited entities are audited persons whose auditors are statutory auditors subject to the regime in Part 42. These Regulations implement the obligations of the Audit Directive and the Audit Regulation in relation to companies and building societies. For other entities subject to statutory audit, these Regulations implement some of the obligations by way

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(**103**)2014 c. 2.

(**104**)OJ No. L 158, 27.05.14.

(**105**)OJ L 158/77 27.05.14.

of amendments to Part 42 of the Companies Act 2006. Further legislation will be made to implement the remaining obligations for the other entities.

Part 1 of the Regulations concerns introductory matters, including the application of the Regulations. By regulation 1, some aspects of the Regulations apply only in relation to financial years beginning on or after 17th June 2016, including the requirements for all public interest entities to put their audit work out to tender at least every ten years and to change their auditor at least every twenty years as well as the extension of the controls which currently apply in relation to the sharing of audit working papers with third country competent authorities to the sharing of audit investigation reports with those competent authorities (see sections 1253D to 1253E Companies Act 2006 for details of the controls). There are transitional arrangements relating to investigations and enforcement action beginning before these Regulations come into force.

Part 2 concerns the functions of the competent authority under these Regulations and the Audit Regulation. The competent authority is the Financial Reporting Council Limited (see the definition of “competent authority” in regulation 2). Regulation 3 sets out the responsibilities of the competent authority and permits the authority both to delegate tasks arising from its responsibilities to any recognised supervisory body, and also to subsequently reclaim tasks it has delegated. It also introduces Schedule 1, which prescribes requirements for the standards the competent authority must determine in relation to the obligations of statutory auditors in relation to professional ethics, independence, objectivity and confidentiality. Regulation 4 sets out the requirement that statutory auditors must comply with certain standards when conducting a statutory audit, which include the standards set under Schedule 1.

Regulation 5 sets out the powers of the competent authority to impose sanctions on statutory auditors who breach the relevant requirements (as defined in regulation 5(11)), which include the requirements in these Regulations (including the requirement in regulation 4), the requirements in the Audit Regulation, and in various enactments which govern statutory audit for a range of audited persons. The competent authority is required by regulation 6 to publish details of sanctions imposed under regulation 5. Regulation 7 concerns the ability of the competent authority to enforce sanctions which have not been complied with by way of application to court for a court order. Regulation 8 provides that if a financial penalty is not paid when due, it will attract interest and may be recovered by the competent authority as a debt.

Regulation 9 requires the competent authority to monitor the conduct of statutory audit work which relate to public interest entities (public interest entities are defined in regulation 2 as an entity which issues securities which are admitted to trading on a regulated market, a credit institution or an insurance undertaking). The monitoring must take the form of a system of inspections which satisfy Article 26 of the Audit Regulation. Regulation 9 sets out the requirements for monitoring the conduct of statutory audit work for all other audited persons, which include having arrangements which operate independently of the persons being monitored, having adequate resourcing for effective monitoring, using suitably qualified and experienced persons to carry out inspections and avoiding conflicts of interest between those carrying out inspections and those being monitored. Regulation 10 gives effect to Schedule 2, which concerns powers of investigation of the competent authority.

Regulation 11 concerns the performance of third country audit functions, defined in regulation 11(8). The entities concerned are incorporated outside the EEA, but are traded in the United Kingdom or their transferable securities are admitted to a regulated market in an EEA state. Regulation 11 applies the system of requirements for audits, monitoring of audits and sanctions and enforcement in regulations 4 to 9 and Schedule 2 to the performance of third country audit functions, with appropriate modifications.

Regulation 12 in Part 3 provides that any term in a contract which, in relation to the conduct of a statutory audit of an audited person, has the effect of restricting the audited person’s choice of statutory auditor to certain categories or lists of statutory auditors, has no effect (unless the audited entity is a public interest entity).

Part 4 concerns miscellaneous matters. Regulation 13 gives power to the competent authority to grant to a statutory auditor, where exceptional circumstances exist, an exemption from the requirements of Article 4(2) of the Audit Regulation (which sets a limit for fees for non-audit services over a three year period of 70% in relation to the audit fees for an entity). The exemption may be granted for up to two consecutive financial years.

Schedule 3 makes amendments to the Companies Act 2006. In particular, amendments are made to Part 16 of that Act in relation to rotation and retendering for statutory auditors for public interest entities. A maximum engagement period of ten years is introduced, although this can be extended to twenty years provided that there is a selection procedure at least every ten years. There are transitional arrangements in relation to the application of the maximum engagement period.

Schedule 4 makes amendments to Part 8 of the Building Societies Act 1986 which mirror the amendments made to Part 16 of the Companies Act 2006 in Schedule 3. Building societies are all public interest entities.

Schedule 5 makes consequential amendments to the Companies (Audit, Investigations and Community Enterprise) Act 2004. Amendments are also made to the Local Audit and Accountability Act 2014 to provide that the amendments to Part 42 of the Companies Act 2006 do not apply in relation to local audit under that Act.

Regulations 14, 18, 19, 20, 22 and 23 make amendments to other secondary legislation.

Regulation 21 excludes a large debt securities issuer from the definition of “UK-traded non-EEA company” for the purposes of Part 42 of the Act.

Regulation 24 requires the Secretary of State to review the provisions of these Regulations, and to publish a report within five years after these Regulations come into force and within every five years after that. In carrying out a review the Secretary of State must, so far as is reasonable, have regard to how the Audit Directive is implemented in other member states. Following a review it will fall to the Secretary of State to consider whether the provisions should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke or amend the provisions.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Business Environment Directorate, Department for Business, Innovation and Skills, 1 Victoria Street, London SW1H 0ET or from [www.gov.uk/bis](http://www.gov.uk/bis), and is also available alongside this instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk).