

SCHEDULE 5

AUDITORS

Appointment

4.—(1) Every company must appoint an auditor or auditors in accordance with this paragraph.

(2) [^{F1}Subject to sub-paragraphs (6) and (7), a company] must, at each general meeting at which the company's annual report is laid, appoint an auditor or auditors to hold office from the conclusion of that meeting until the conclusion of the next general meeting at which an annual report is laid.

(3) [^{F2}Subject to sub-paragraph (6), the first] auditors of a company may be appointed by the directors of the company at any time before the first general meeting of the company at which an annual report is laid; and auditors so appointed are to hold office until the conclusion of that meeting.

(4) Where no appointment is made under sub-paragraph (3), the first auditors of any company may be appointed by the company in general meeting.

[^{F3}(5) Subject to sub-paragraph (5A), no rules made under section 340 of the Act (appointment of auditors) apply in relation to open-ended investment companies.

(5A) Rules may be made under section 340 of the Act in relation to open-ended investment companies [^{F4}that are UCITS].]

[^{F5}(6) On the date on which the holding of an annual general meeting is dispensed with in accordance with regulation 37A, any auditor or auditors appointed in accordance with sub-paragraph (2) or (3) ceases to hold office and the directors must forthwith re-appoint the auditor or auditors or appoint a new auditor or auditors.]

[^{F6}(7) The directors of any company which does not hold annual general meetings must appoint the auditor or auditors.]

Textual Amendments

- F1** Words in Sch. 5 para. 4(2) substituted (6.4.2005) by [The Open-Ended Investment Companies \(Amendment\) Regulations 2005 \(S.I. 2005/923\)](#), regs. 1, **2(9)(a)**
- F2** Words in Sch. 5 para. 4(3) substituted (6.4.2005) by [The Open-Ended Investment Companies \(Amendment\) Regulations 2005 \(S.I. 2005/923\)](#), regs. 1, **2(9)(b)**
- F3** Sch. 5 para. 4(5)(5A) substituted for Sch. 5 para. 4(5) (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), regs. 1, **3(9)**
- F4** Words in Sch. 5 para. 4(5A) substituted (31.12.2020) by [The Collective Investment Schemes \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/325\)](#), regs. 1(2), **52(13)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Sch. 5 para. 4(6) inserted (6.4.2005) by [The Open-Ended Investment Companies \(Amendment\) Regulations 2005 \(S.I. 2005/923\)](#), regs. 1, **2(9)(c)**
- F6** Sch. 5 para. 4(7) inserted (6.4.2005) by [The Open-Ended Investment Companies \(Amendment\) Regulations 2005 \(S.I. 2005/923\)](#), regs. 1, **2(9)(d)**

5. If, in any case, no auditors are appointed as required in paragraph 4, the Authority may appoint a person to fill the vacancy.

6.—(1) The directors of a company, or the company in general meeting, may fill a casual vacancy in the office of auditor.

(2) While such a vacancy continues, any surviving or continuing auditor or auditors may continue to act.

Changes to legislation: There are currently no known outstanding effects for the The Open-Ended Investment Companies Regulations 2001, Appointment. (See end of Document for details)

7.—(1) Sub-paragraphs (2) to (5) apply to the appointment, as auditor of a company, of a partnership constituted under the law of England and Wales or Northern Ireland, or under the law of any country or territory in which a partnership is not a legal person; and sub-paragraphs (3) to (5) apply to the appointment as such an auditor of a partnership constituted under the law of Scotland, or under the law of any country or territory in which an partnership is a legal person.

(2) The appointment is, unless the contrary intention appears, an appointment of the partnership as such and not of the partners.

(3) Where the partnership ceases, the appointment is to be treated as extending to—

- (a) any partnership which succeeds to the practice of that partnership and is eligible for the appointment; and
- (b) any person who succeeds to that practice having previously carried it on in partnership and is eligible for the appointment.

(4) For this purpose a partnership is to be regarded as succeeding to the practice of another partnership only if the members of the successor partnership are substantially the same as those of the former partnership; and a partnership or other person is to be regarded as succeeding to the practice of a partnership only if it or he succeeds to the whole or substantially the whole of the business of the former partnership.

(5) Where the partnership ceases and no person succeeds to the appointment under sub-paragraph (3), the appointment may with the consent of the company be treated as extending to a partnership or other person eligible for the appointment who succeeds to the business of the former partnership or to such part of it as is agreed by the company to be treated as comprising the appointment.

Changes to legislation:

There are currently no known outstanding effects for the The Open-Ended Investment Companies Regulations 2001, Appointment.