

**EXPLANATORY MEMORANDUM TO  
THE STATUTORY AUDITORS (DELEGATION OF FUNCTIONS ETC)  
ORDER 2008**

**2008 No. 496**

1. This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty.
2. **Description**
  - 2.1 This draft Order delegates most of the functions of the Secretary of State under Part 42 of the Companies Act 2006 (regulation of statutory auditors) to the Professional Oversight Board of the Financial Reporting Council.
  - 2.2 Most of these functions of the Secretary of State will be transferred to the Professional Oversight Board on 6<sup>th</sup> April 2008, which is the date of commencement of Part 42 of the Companies Act 2006. However certain functions (already in force) for the making of regulations will be transferred prior to this on 1<sup>st</sup> March. This is to allow the Professional Oversight Board to make regulations to come into effect on 6 April with the commencement of Part 42.
  - 2.3 The Order is laid before Parliament in draft for approval by resolution of each House.
3. **Matters of special interest to the Joint Committee on Statutory Instruments.**
  - 3.1 None.
4. **Legislative background**
  - 4.1 The Order is the first use of the power for the delegation of the Secretary of State's functions under section 1252 of the Companies Act 2006. The power provides for the Secretary of State to make a Delegation Order to enable most of his functions under Part 42 to be exercised by a body which the Order designates.
  - 4.2 Part 42 of the Companies Act 2006 ensures that individuals or firms appointed as statutory auditors are properly qualified and supervised, and that audits are conducted properly. "Statutory auditor" means the auditor of a company under Part 16 of the 2006 Act, or the auditor of certain other bodies set out in section 1210 of the Act.
  - 4.3 Under Part 42, qualified auditors are required to be registered as members of a recognised supervisory body, and subject to its rules in order to be eligible for appointment as a statutory auditor. The

Secretary of State's powers to recognise supervisory bodies, and to recognise professional audit qualifications are delegated to the Professional Oversight Board by the Order. The Professional Oversight Board will then ensure the compliance of the supervisory bodies with the requirements of Schedule 10 to the Act

- 4.4 The provisions of Part 42 are amended by the Statutory Auditors and Third Country Auditors Regulations 2007 (SI 2007/3494), which will also come into force on 6<sup>th</sup> April 2008. The new functions of the Secretary of State inserted into Part 42 by those Regulations are also delegated to the Professional Oversight Board by this Order.
- 4.5 The provisions of Part 42 (as amended) reflect the requirements of Directive 2006/43 EC 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 (OJ L157, 9.6.2006, p.87). This Order implements in part Article 32 (public oversight) of the Directive. A Transposition Note showing the main provisions made to implement the Directive is attached at Annex A to this memorandum.
- 4.6 By virtue of section 1252(3) of the 2006 Act, the Order has the effect of designating the Professional Oversight Board for the purposes of the Freedom of Information Act 2000 (2000 c.36).
- 4.7 This Order revokes and effectively replaces the Companies Act 1989 (Delegation) Order 2005 (SI 2005/2337), which was made under Part 2 of the Companies Act 1989 (1989 c.40) (regulation of company auditors) to delegate the Secretary of State's functions under that Part to the Professional Oversight Board for Accountancy (as it then was).

## **5. Extent**

- 5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

- 6.1 The Minister of State for Competitiveness, Rt Hon Stephen Timms MP has made the following statement regarding human rights:

In my view the provisions of the Statutory Auditors (Delegation of Functions etc) Order 2008 are compatible with the Convention rights.

## **7. Policy background**

- 7.1 The Secretary of State's functions under Part 42 are delegated, subject to certain exceptions and reservations. These include the exceptions specified in section 1252 of the Companies Act and additional exceptions so that certain functions (in particular, several legislative powers) are retained by the Secretary of State. Certain functions are

transferred by the Delegation Order subject to the reservation that they may be exercised concurrently by the Secretary of State. Others are transferred subject to the reservation that they may only be exercised subject to the consent of the Secretary of State.

- 7.2 At the same time that Part 42 and this Order come into force, a series of administrative changes at the Financial Reporting Council will come into effect. This will include a change to the limited company of which the Professional Oversight Board is an operating board. It is therefore necessary for the order to make separate references to the Board as it exists before and after the changes on 6<sup>th</sup> April.

## **Consultation**

- 7.3 A draft of the Order was issued for consultation on 27<sup>th</sup> July 2007. The Department for Business Enterprise and Regulatory Reform did not receive any responses. The delegation of the Secretary of State's functions under Part 42 of the Companies Act can be viewed as an established part of the regulatory framework for audit since the delegation made in 2005 under the Companies Act 1989. It allows an independent expert body to carry out the regulatory functions required by Part 42.

## **8. Impact**

- 8.1 The delegation of the Secretary of State's functions under Part 42 of the Companies Act to the Professional Oversight Board completes the implementation of that Part of the Companies Act for most audits. It affects a limited group of supervisory and qualifying bodies, as well as the Professional Oversight Board itself, and imposes few new administrative burdens on those bodies. The quantifiable financial benefits are also limited. In these circumstances, a full formal impact assessment is not necessary.

## **9. Contact**

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## **TRANSPOSITION NOTE**

### **DIRECTIVE 2006/43/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 17 MAY 2006 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**

1. This note describes the implementation in the UK of Directive 2006/43 EC of the European Parliament and of the Council of 17 May 2006 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 (OJ L157, 9.6.2006, p.87). The Directive must be implemented by 29 June 2008.

2. The Directive regulates auditors and the audit process, repealing and replacing the Eighth Council Directive 84/253/EEC of 10 April 1984 based on Article 54 (3) (g) of the Treaty on the approval of persons responsible for carrying out the statutory audits of accounting documents. The Directive extends to auditors in the European Economic Area by virtue of Decision of the EEA Joint Committee No. 160/2006 of 8 December 2006 amending Annex XXII (Company law) to the EEA Agreement (OJ L 89, 29.3.2007, p.38).

3. The Directive applies in relation to all audits of accounts required by Community law (article 2.1): that is, audits of company accounts and the accounts of certain partnerships, insurers and credit institutions (e.g. building societies, friendly societies). The Directive sets down requirements as to:

- auditors' qualifications (articles 3-13);
- registration of auditors (articles 15-20);
- auditors' professional ethics (articles 21-24);
- auditing standards (article 26);
- aspects of the audit process (articles 25, 27, 28);
- monitoring and investigation of auditors (articles 29-30);
- oversight of auditors by competent authorities (articles 32-36, 47); and
- regulation of third country auditors (articles 45-46).

There are also some obligations in the Directive on audited entities, relating to:

- appointment of auditors (article 37);
- dismissal of auditors (article 38); and
- establishment of an audit committee (article 41).

4. UK law already regulates auditors and the audit process in the Companies Act 1985 and the Companies Act 1989 in Great Britain, and equivalent legislation in Northern Ireland. Those provisions are replaced by Parts 16 and 42 of the Companies Act 2006, which apply to the whole of the UK and (it is intended) will be brought into force on 6<sup>th</sup> April 2008 (see the Companies Act 2006 (Commencement No. 5, Consequential Amendments, Transitional Provisions and Savings) Order 2007).

5. The UK implementation of the Directive consists of provisions in the following instruments, which are the responsibility of the Secretary of State for Business, Enterprise and Regulatory Reform, except where indicated:

- Parts 16 and 42 of the Companies Act 2006;
- Statutory Auditors and Third Country Auditors Regulations 2007 (including amendments to the Companies Act 2006);
- the Statutory Auditors (Delegation of Functions etc) Order 2008 (which delegates functions of the Secretary of state under Part 42 of the Companies Act 2006 to the Professional Oversight Board);
- the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008;
- Partnerships (Accounts) Regulations 2008;
- Bank Accounts Directive (Miscellaneous Banks) Regulations 2008;
- Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008;
- Building Societies Act 1986 (*HM Treasury responsible*);
- Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008 (*HM Treasury responsible*);
- Friendly Societies Act 1992 (*HM Treasury responsible*);
- Friendly Societies Act 1992 (Accounts, Audit and EEA State Amendments) Order 2008 (*HM Treasury responsible*);
- regulations to be made replacing the Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2004 (*HM Treasury responsible*);
- regulations to be made regarding the register of auditors, the subjects for auditors' examinations, and transparency reports (*Professional Oversight Board responsible*);
- rules to be made relating to audits of certain entities whose securities are traded on a regulated market (*Financial Services Authority responsible*).

6. The implementing provisions in the above instruments do not go beyond the Directive's requirements in any significant respect.

7. The table below describes the main substantive provisions implementing the Directive. Unless otherwise indicated, references in the table to a section or schedule are to provisions of the Companies Act 2006 and references to a regulation are to a provision of the Statutory Auditors and Third Country Auditors Regulations 2007.

<b>Directive 2006/43/EC on statutory audits: Transposition Measures</b>		
<b>Article</b>	<b>Objective</b>	<b>Implementation</b>
1	Describes the Directive's subject matter.	No implementation required.
2	Sets out definitions of terms used in Directive.	Directive definitions reflected in substantive implementing provisions.
<b>APPROVAL OF AUDITORS</b>		
3.1	Statutory audits may only be carried out by approved statutory auditors.	Section 1212(1).
3.2	Competent authorities to be designated for approving statutory auditors.	Section 1217 and Schedule 10.
3.3	Statutory auditors who are individuals to be approved only if articles 4 and 6-10 are met.	See implementation of articles 4 and 6-10 below.
3.4	Statutory auditors which are firms to be approved only if individuals conducting audits comply with articles 4 and 6-12, and if firm is controlled and managed by qualified individuals.	Paragraphs 6 and 7 of Schedule 10. See also implementation of articles 4 and 6-12 below.
4	Statutory auditors must be of good repute.	Paragraph 8 of Schedule 10.
5.1	Approval to be withdrawn if good repute compromised.	Paragraphs 8 and 14 of Schedule 10.
5.2	Approval to be withdrawn if firm not controlled and managed by qualified individuals.	Paragraphs 6, 7 and 14 of Schedule 10.
5.3	Withdrawal of approval to be notified to relevant authorities of other Member States.	Sections 1223A and 1253C (as inserted by regulations 7 and 14).
<b>AUDITORS' QUALIFICATIONS</b>		
6	Qualifications to include theoretical instruction, practical training and examination of professional competence.	Sections 1219 and 1220, and paragraphs 6 to 11 of Schedule 11.
7	Examination of professional competence must guarantee theoretical knowledge of subjects relevant to statutory audit, and the ability to apply that knowledge in practice.	Paragraph 8 of Schedule 11 and <i>regulations to be made by the Professional Oversight Board prescribing examination subjects.</i>
8.1 and 8.2	List of subjects to be included in test of theoretical knowledge.	Paragraph 8 of Schedule 11 and <i>regulations to be made by the Professional Oversight Board prescribing examination subjects.</i>
8.3	Commission may adopt further measures.	No implementation required at this stage.

9.1	Person holding a degree in a subject may be exempted from further test of theoretical knowledge under Article 7 or 8 in that subject.	Paragraph 8(2) of Schedule 11.
9.2	Person holding a degree in a subject may be exempted from further test of ability to apply knowledge under Article 7 if also has a diploma attesting to practical training.	Paragraph 8(3) of Schedule 11.
10.1	Practical training of minimum 3 years, at least 2 years of which with a statutory auditor.	Paragraph 9 of Schedule 11.
10.2	Training providers must provide adequate guarantees of their ability to provide training.	Paragraph 9(3) of Schedule 11.
11	Member State may allow a person who does not meet the Article 6 requirements instead to qualify through: (a) 15 years' professional experience and passing the exam under Article 7; or (b) 7 years' professional experience, passing the exam under Article 7, and completing the practical training under Article 10.	(a) Not implemented. (b) Paragraph 7 of Schedule 11.
12.1	Theoretical instruction of more than 1 year may count towards up to 4 years of the professional experience required by Article 11.	Paragraph 10(1) of Schedule 11.
12.2	Combination of professional experience and practical training must not be shorter than combination of theoretical instruction with practical training.	Paragraph 10(2) of Schedule 11.
13	Statutory auditors required to take part in continuing education.	Paragraphs 11 and 14 of Schedule 10.
14	Member State authorities must approve auditors from other Member States who pass an aptitude test.	Paragraph 6 of Schedule 10 (as amended by regulation 17).
<b>REGISTRATION OF AUDITORS</b>		
15.1	Auditors to be entered into public register in accordance with Articles 16 and 17.  Requirements of Articles 15 and 16 may be disapplied if threat to a person's security.	See implementation of Articles 16 and 17 below.  <i>Regulations to be made by the Professional Oversight Board on register of auditors.</i>
15.2	Each auditor to be identified by registration number; register to be in electronic form and electronically accessible.	<i>Regulations to be made by the Professional Oversight Board on register of auditors.</i>
15.3	Register to contain name and address of auditors' supervisory authorities.	<i>Regulations to be made by the Professional Oversight Board on register of auditors.</i>

15.4	Register to be fully operational by 29 June 2009.	<i>Regulations to be made by the Professional Oversight Board on register of auditors.</i>
16.1	Register to contain individual statutory auditor's name and address, details of any firm he is employed by, and details of any registration in other Member States.	<i>Regulations to be made by the Professional Oversight Board on register of auditors.</i>
16.2	Third country auditors to be marked in register as such.	Regulation 32(2)(c).
17.1	Register to contain audit firm's name and address, legal form, names and addresses of owners and managers, and details of any registration in other Member States.	<i>Regulations to be made by the Professional Oversight Board on register of auditors.</i>
17.2	Third country audit firms to be marked in register as such.	Regulation 32(3)(d).
18	Statutory auditors under a duty to update register.	<i>Regulations to be made by the Professional Oversight Board on register of auditors.</i>
19	Information provided for register under Articles 16, 17 and 18 must be signed by statutory auditor.	<i>Regulations to be made by the Professional Oversight Board on register of auditors.</i>
20.1	Register to be in a language permitted by Member State.	<i>Regulations to be made by the Professional Oversight Board on register of auditors.</i>
20.2	Member State may allow information on register in a second Community language.	Not implemented.
<b>PROFESSIONAL ETHICS</b>		
21.1	Statutory auditors subject to professional ethics principles, including integrity, objectivity, professional competence and due care.	Paragraphs 9 and 21 of Schedule 10 (as amended by regulation 19).
21.2	Commission may adopt further measures.	No implementation required at this stage.
22.1	Statutory auditor to be independent of audited person.	Sections 1214 and 1215, and paragraphs 9 and 21 of Schedule 10 (as amended by regulation 19).
22.2	Audit not to be carried out if significant threats to statutory auditor's independence; safeguards to be applied to mitigate threats.  Audit of public interest entity not to be carried out in case of self-review or self-interest,	Paragraphs 9 and 21 of Schedule 10 (as amended by regulation 19).  Paragraphs 9 and 21 of Schedule 10 (as amended by regulation 19).
22.3	Statutory auditors to record significant threats to independence and safeguards applied.	Paragraphs 9 and 21 of Schedule 10 (as amended by regulation 19).



22.4	Commission may adopt further measures.	No implementation required at this stage.
23.1	Audit documents to be subject to rules on confidentiality.	Paragraph 9(3)(b) of Schedule 10 (as amended by regulation 19).
23.2	Such confidentiality rules not to impede enforcement of Directive.	Paragraph 9(3)(b) of Schedule 10 (as amended by regulation 19).
23.3	Outgoing statutory auditor to provide incoming statutory auditor with all relevant information.	Paragraph 9(3)(c) of Schedule 10 (as amended by regulation 19).
23.4	Obligations of Article 23.1 and 2 extend to former statutory auditors.	Paragraph 9(4) of Schedule 10 (as amended by regulation 19).
24	Owners and managers of audit firms not to compromise independence and objectivity of individual auditors in conduct of audits.	Paragraph 9(3)(a) of Schedule 10 (as amended by regulation 19).
25	Audit fees not to be influenced by provision of additional services or based on a contingency.	Paragraphs 9(1)(e) and 21 of Schedule 10 (as amended by regulation 19).
<b>AUDIT STANDARDS AND REPORTING</b>		
26.1	Statutory audits to be conducted in accordance with international auditing standards adopted by Commission; but national standards may be applied if no such standards adopted.	No implementation required at this stage.
26.2	Commission may adopt international auditing standards under certain conditions.	No implementation required.
26.3	Member States may derogate from adopted international auditing standards under certain conditions.	No implementation required at this stage.
26.4	Member States may impose additional requirements until 29 June 2010.	No implementation required at this stage.
27(a)	For statutory audits of group accounts group auditor bears full responsibility.	- sections 495 and 471; - section 78(4)(c) of Building Societies Act 1986; - section 73(5)(c) of Friendly Societies Act 1992.
27(b)	Group auditor reviews work performed by other auditors, and documents review.	Paragraphs 10A(1) and 22 of Schedule 10 (as inserted by regulation 20).
27(c)	If work is carried out by an auditor in a country with which there is no Article 47 arrangement, group auditor is to retain copies of that auditor's documentation and make them available to authorities.	Paragraph 10A(3) to (6) of Schedule 10 (as inserted by regulation 20).

28.1	Audit report of audit firm to be signed by individual auditor carrying out the work, unless threat to personal security.	<ul style="list-style-type: none"> <li>- sections 503 to 506;</li> <li>- regulation 10 of the Partnerships (Accounts) Regulations 2008;</li> <li>- regulation 9 of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008;</li> <li>- regulation 8 of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008;</li> <li>- sections 78A to 78D of Building Societies Act 1986 (as inserted by article 5 of Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008);</li> <li>- sections 74 to 74C of Friendly Societies Act 1992 (as inserted by article 5 of Friendly Societies Act 1992 (Accounts, Audit and EEA State Amendments) Order 2008);</li> <li>- <i>regulations to be made replacing the Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2004.</i></li> </ul>
28.2	If no international standard adopted for audit reports under Article 26.1, Commission may adopt a common EU standard.	No implementation required at this stage.
<b>QUALITY ASSURANCE REVIEWS</b>		
29.1	Statutory auditors must be subject to quality assurance reviews meeting following conditions:	
	(a) independent of the auditors;	Paragraph 12(1A) of Schedule 10 (as amended by regulation 22).
	(b) funding secure and free from influence;	Paragraph 12(1) of Schedule 10 (as amended by regulation 22).
	(c) adequate resources;	Paragraph 12(1) of Schedule 10 (as amended by regulation 22).
	(d) carried out by persons with appropriate education and experience;	Paragraph 13(4) of Schedule 10 (as amended by regulation 23).
	(e) selection of reviewers is objective;	Paragraph 13(4) of Schedule 10 (as amended by regulation 23).
	(f) review to test audit files, check compliance with audit standards, independence requirements, resources allocated, audit fees, and internal quality control;	Paragraph 13(5) and (6) of Schedule 10 (as amended by regulation 23).
	(g) review to be subject of a report;	Paragraph 13(8) of Schedule 10 (as amended by regulation 23).

	(h) take place at least every 6 years;	Paragraph 13(3) of Schedule 10 (as amended by regulation 23).
	(i) overall results of reviews to be published annually;	Section 1251A (as inserted by regulation 11).
	(j) review recommendations to be followed up, or disciplinary action taken.	Paragraphs 12 and 14 of Schedule 10 (as amended by regulation 22).
29.2	Commission may adopt measures for the uniform application of (a), (b) and (e) to (j) above.	No implementation required at this stage.
<b>INVESTIGATIONS AND OVERSIGHT</b>		
30.1	Member States to have effective systems of investigations and penalties.	Paragraphs 12 and 14 of Schedule 10 (as amended by regulation 22).
30.2	Penalties to be effective, proportionate and dissuasive.	Paragraphs 12 and 14 of Schedule 10 (as amended by regulation 22).
30.3	Penalties to be disclosed to the public and include the possibility of withdrawal of approval.	Paragraph 12(3) of Schedule 10 (as amended by regulation 22).
31	Commission to present a report on auditors' liability.	No implementation required.
32.1	Member States to have effective oversight of statutory auditors in accordance with paragraphs 2 to 7.	Sections 1209 to 1264 and Schedules 10 to 14.
32.2	All statutory auditors to be subject to public oversight.	Sections 1212(1) and 1217, paragraphs 1 to 4 of Schedule 10, and article 4 of the Statutory Auditors (Delegation of Functions etc) Order 2008.
32.3	System of public oversight to be governed by independent non-practitioners.	Article 4 of the Statutory Auditors (Delegation of Functions etc) Order 2008.
32.4	System of public oversight to oversee approval and registration of statutory auditors, adoption of audit standards, continuing education, quality assurance, investigations and discipline.	Sections 1209 to 1264 and Schedules 10 to 14, and article 4 of the Statutory Auditors (Delegation of Functions etc) Order 2008.
32.5	System of public oversight to include conducting investigations in relation to statutory auditors and taking appropriate action.	Sections 1224 and 1225, and article 4 of the Statutory Auditors (Delegation of Functions etc) Order 2008.
32.6	System of public oversight to be transparent and publish annual work programmes and activity reports.	Paragraph 10 of Schedule 13 and article 7 of the Statutory Auditors (Delegation of Functions etc) Order 2008.
32.7	System of public oversight to be adequately funded, and funding free from undue influence.	Article 4 of the Statutory Auditors (Delegation of Functions etc) Order 2008.

33	Member States to ensure cooperation of national public oversight systems, and to nominate one entity as responsible for that cooperation.	Sections 1253A to 1253C (as inserted by regulation 16), and article 4 of the Statutory Auditors (Delegation of Functions etc) Order 2008.
34.1	Member States to respect the principle of home-country regulation.	Sections 1210 and 1212.
34.2	For audits of group accounts, Member States may not impose additional requirements on audits of subsidiaries established in other Member States.	Sections 1210 and 1212, and paragraphs 6 to 11 of Schedule 10 (as amended by regulations 17 to 21).
34.3	For companies whose securities are traded on the market of a second Member State, the second Member State may not impose additional requirements on their audits.	Sections 1210 and 1212, and paragraphs 6 to 11 of Schedule 10 (as amended by regulations 17 to 21).
35.1	Member States to designate competent authorities for Directive's tasks.	Section 1217 and Schedule 10, Section 1220 and Schedule 11, and the Statutory Auditors (Delegation of Functions etc) Order 2008.
35.2	Competent authorities to avoid conflicts of interest.	Section 1217 and Schedule 10, Section 1220 and Schedule 11, and the Statutory Auditors (Delegation of Functions etc) Order 2008.
36.1	Competent authorities of Member States to cooperate with one another, render assistance and exchange information.	Sections 1253A to 1253C (as inserted by regulation 14).
36.2	Obligations of professional secrecy to apply to employees of competent authorities.	Sections 1224A and 1224B and Schedule 11A (as inserted by regulation 8 and Schedule to the Regulations).
36.3	Article 36.2 shall not prevent competent authorities exchanging information.	Section 1224A(4) and (5) and Schedule 11A (as inserted by regulation 10 and Schedule to the Regulations).
36.4	Competent authorities to provide information requested by competent authorities of other Member States. They may refuse in certain circumstances.	Section 1253B (as inserted by regulation 14).
36.5	Competent authorities to notify competent authorities of other Member States if aware of unlawful conduct in their territories.	Section 1253C (as inserted by regulation 14).
36.6	Competent authorities to conduct investigations requested by competent authorities of other Member States. They may refuse in certain circumstances.	Section 1253B (as inserted by regulation 14).

36.7	Commission may adopt further measures to facilitate cooperation between competent authorities.	No implementation required at this stage.
<b>APPOINTMENT AND DISMISSAL OF AUDITORS</b>		
37.1	Statutory auditor to be appointed by members of audited entity.	<ul style="list-style-type: none"> <li>- sections 485 and 489;</li> <li>- regulation 8 of the Partnerships (Accounts) Regulations 2008;</li> <li>- regulation 7 of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008;</li> <li>- regulation 6 of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008;</li> <li>- section 77 of, and Schedule 11 to, the Building Societies Act 1986;</li> <li>- section 72 of, and Schedule 14 to, the Friendly Societies Act 1992;</li> <li>- <i>regulations to be made replacing the Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2004.</i></li> </ul>
37.2	Alternative systems of appointment allowed if designed to ensure independence of auditor from managers of audited entity.	Sections 486 and 490;
38.1	Statutory auditors not to be dismissed on improper grounds.	<ul style="list-style-type: none"> <li>- section 994 (as amended by regulation 42);</li> <li>- regulation 11 of the Partnerships (Accounts) Regulations 2008;</li> <li>- regulation 10 of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008;</li> <li>- regulation 9 of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008;</li> <li>- paragraph 6A of Schedule 11 to the Building Societies Act 1986 (as inserted by article 6 of Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008);</li> <li>- paragraph 10A of Schedule 14 to the Friendly Societies Act 1992 (as inserted by article 6 of Friendly Societies Act 1992 (Accounts, Audit and EEA State Amendments) Order 2008);</li> <li>- <i>regulations to be made replacing the Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2004.</i></li> </ul>

38.2	Statutory auditor and audited entity to inform competent authority of dismissal or resignation, including an explanation of the reasons.	<ul style="list-style-type: none"> <li>- sections 522 and 523;</li> <li>- regulations 12 and 13 of the Partnerships (Accounts) Regulations 2008;</li> <li>- regulations 11 and 12 of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008;</li> <li>- regulations 10 and 11 of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008;</li> <li>- paragraphs 8A to 8C of Schedule 11 to the Building Societies Act 1986 (as inserted by article 6 of Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008);</li> <li>- paragraphs 15A to 15C of Schedule 14 to the Friendly Societies Act 1992 (as inserted by article 6 of Friendly Societies Act 1992 (Accounts, Audit and EEA State Amendments) Order 2008);</li> <li>- <i>regulations to be made replacing the Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2004.</i></li> </ul>
<b>STATUTORY AUDITS OF PUBLIC INTEREST ENTITIES</b>		
39	Member States may exempt non-traded public interest entities from the requirements of Articles 40 to 43.	Implemented in provisions relating to Articles 40 to 43 – see below.
40.1	Statutory auditors of public interest entities to publish transparency reports containing certain information on their websites.	<i>Regulations to be made by the Professional Oversight Board on transparency reports.</i>
40.2	Transparency report to be signed by the statutory auditor.	<i>Regulations to be made by the Professional Oversight Board on transparency reports.</i>
41.1	Public interest entities to have audit committees, whose membership includes one independent person competent in accounting or auditing.	No implementation required – see Article 41.5 below.
41.2	Functions of an audit committee to include monitoring financial reporting process, the audit, and the independence of the statutory auditor.	No implementation required – see Article 41.5 below.
41.3	Proposal of public interest entity's managers for appointment of statutory auditor to be based on audit committee's recommendation.	No implementation required – see Article 41.5 below.
41.4	Statutory auditor to report to audit committee on key matters arising from audit.	Paragraph 10B(2)(e) and (f) of Schedule 10 (as inserted by regulation 21).

41.5	Member States may exempt public interest entities from the above requirements if they have a body performing equivalent functions.	<i>Rules to be made by the Financial Services Authority.</i>
41.6	Member States may exempt from the above requirements: (a) a subsidiary of a public interest entity; (b) a collective investment undertaking; (c) an issuer of asset-backed securities; (d) a credit institution which is not traded or issued debt securities of more than 100 million euros.	<i>Rules to be made by the Financial Services Authority.</i>
42.1	Statutory auditors of public interest entities to: (a) confirm annually in writing to audit committee their independence; (b) disclose annually to audit committee any additional non-audit services provided to entity; (c) discuss with audit committee the threats to their independence and the safeguards applied.	(a) Paragraph 10B(2)(a) of Schedule 10 (as inserted by regulation 21). (b) Paragraph 10B(2)(b) of Schedule 10 (as inserted by regulation 21). (c) Paragraph 10B(2)(c) and (d) of Schedule 10 (as inserted by regulation 21).
42.2	In audit firms, key audit partners responsible for audit to rotate after 7 years.	Paragraph 10C(1)(a) and (b) of Schedule 10 (as inserted by regulation 21).
42.3	Key audit partners not to take up key management posts in audited entity for two years following audit.	Paragraph 10C(3) and (4) of Schedule 10 (as inserted by regulation 21).
43	Quality assurance review under Article 29 must be every 3 years for statutory auditors of public interest entities.	Paragraph 23(1A) of Schedule 10 (as inserted by regulation 28).
<b>AUDITORS FROM THIRD COUNTRIES</b>		
44.1	Member States may approve third country auditors as statutory auditors, subject to reciprocity, if they meet requirements equivalent to Articles 4 and 6 to 13.	Section 1221(3) and (4).
44.2	The requirements of Article 14 also apply to approval of a third country auditor.	Section 1221(1A) and (7A) (as amended by regulation 6).
45.1	Competent authorities of Member State must register in accordance with Articles 15 to 17 third country auditor who provide an audit report of a company whose securities are traded on a regulated market in that Member State.	Regulations 34 to 37.
45.2	Articles 18 and 19 also apply to such registration.	Regulations 35(5) and 39.

45.3	Member States to subject registered third country auditors to their systems of oversight, quality assurance, and investigation and penalties.	Sections 1242 to 1245 and Schedule 12 (as amended by regulations 32 and 33).
45.4	Audit reports to have no legal effect if the third country auditor is not registered.	<i>Rules to be made by the Financial Services Authority.</i>
45.5	Third country auditors to be registered only if: (a) meet requirements equivalent to Article 3(3); (b) majority of firm's managers meet requirements of Articles 4 to 10; (c) individual auditors meet requirements of Articles 4 to 10; (d) audits conducted in accordance with standards and requirements equivalent to Articles 22, 24, 25 and 26; (e) publish a transparency report equivalent to Article 40 requirements.	(a) Regulations 35(3)(c) and (4) and 36(c); (b) Regulations 35(3)(c) and 36(b)(i); (c) Regulations 35(3)(c) and 36(b)(ii); (d) Regulations 35(3)(c) and 36(d) and (e); (e) Regulations 35(3)(c) and 36(f).
45.6	Equivalence referred to in Article 45.5(d) to be assessed by Commission. Member States may assess if no Commission decision.	Regulation 36(d) and (e).
46.1	Member States may disapply Article 45.1 – 3 on basis of reciprocity if a third country auditor is subject in home country to quality assurance, investigations and oversight equivalent to Articles 29, 30 and 32.	Sections 1239(7) and 1242(4) (as amended by regulation 30(5)).
46.2	Equivalence referred to in Article 46.1 to be assessed by Commission. Member States may assess if no Commission decision.	Sections 1239(7) and 1242(4) (as amended by regulation 30(5)).
46.3	Member States to communicate to Commission their assessments of equivalence and any cooperative arrangements with third country authorities.	No implementation required in legislation.
<b>TRANSFER OF PAPERS TO THIRD COUNTRY AUTHORITIES</b>		
47.1	Member States may allow transfer of audit papers to a third country authority if: (a) papers relate to a company traded in that country or a group based in that country; (b) transfer is via Member State authority; (c) third country authority meets requirements declared as adequate under Article 47.3; (d) there are working arrangements based on reciprocity between the authorities; (e) transfer is in accordance with Data Protection Directive.	Section 1253D (as inserted by regulation 15). (No further implementation required at this stage until a Commission decision under Article 47.3.)



47.2	<p>Working arrangements referred to in Article 47.1(d) must ensure that:</p> <p>(a) requests for audit papers are justified;</p> <p>(b) employees of authority are subject to professional secrecy obligations;</p> <p>(c) authorities only use papers for oversight and other functions equivalent to Articles 29, 30 and 32;</p> <p>(d) a request for papers may be if adverse effect on security or public order, or judicial proceedings initiated in respect of same matter.</p>	No implementation required at this stage until a Commission decision under Article 47.3.
47.3	Adequacy referred to in Article 47.1(c) to be decided by Commission.	No implementation required at this stage.
47.4	<p>As a derogation from Article 47.1, Member States may allow direct transfer of papers from auditors to third country authorities if:</p> <p>(a) authorities have initiated investigations;</p> <p>(b) transfer does not conflict with auditor's obligations to Member State authority;</p> <p>(c) reciprocal working arrangements between authorities for direct access;</p> <p>(d) Member State authority informed of request in advance;</p> <p>(e) working arrangements comply with Article 47.2.</p>	<p>(a) Paragraph 16A(2) of Schedule 10 (as inserted by regulation 24).</p> <p>(b) No implementation required, as no such conflicting obligations exist.</p> <p>(c) Paragraph 16A(1)(a) of Schedule 10 (as inserted by regulation 24) and section 1253E (as inserted by regulation 15).</p> <p>(d) Paragraph 16A(4) of Schedule 10 (as inserted by regulation 24).</p> <p>(e) Paragraph 16A(1)(a) of Schedule 10 (as inserted by regulation 24) and section 1253E (as inserted by regulation 15).</p>
47.5	Commission may specify the cases to which Article 47.4 applies.	No implementation required at this stage.
47.6	Member States to communicate to Commission working arrangements referred to above.	No implementation required in legislation.
<b>COMMITTEE PROCEDURE</b>		

48	Committee procedure (comitology) for further measures to be made by Commission under Directive.	No implementation required.
<b>DISCLOSURE OF AUDITOR REMUNERATION</b>		
49.1(a)	Article 43.1 of Directive 78/660/EEC amended so that notes on company accounts include auditor's fees for audit and other services.	<ul style="list-style-type: none"> <li>- Regulation 5 of the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008;</li> <li>- regulation 4(2) of the Partnerships (Accounts) Regulations 2008;</li> <li>- regulation 4(2) of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008;</li> <li>- regulation 3(5) of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008;</li> <li>- Schedule 10C to the Building Societies Act 1986 (as inserted by Schedule 1 to the Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008);</li> <li>- Schedule 13F to the Friendly Societies Act 1992 (as inserted by Schedule 1 to the Friendly Societies Act 1992 (Accounts, Audit and EEA State Amendments) Order 2008);</li> <li>- <i>regulations to be made replacing the Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2004.</i></li> </ul>
49.1(b)	Article 44.1 of Directive 78/660/EEC amended so that Member States may allow small companies not to produce notes on such fees.	<ul style="list-style-type: none"> <li>- regulation 4 of the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008;</li> <li>- regulation 4(2) of the Partnerships (Accounts) Regulations 2008;</li> <li>- regulation 4(2) of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008;</li> </ul>

49.1(c)	Article 45.2 of Directive 78/660/EEC amended so that Member States may allow medium-size companies not to disclose such fees if disclosed to audit regulator on request.	<ul style="list-style-type: none"> <li>- regulation 4(4) of the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008;</li> <li>- regulation 4(2) of the Partnerships (Accounts) Regulations 2008;</li> <li>- regulation 4(2) of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008;</li> </ul>
49.2	Article 34 of Directive 83/349/EEC amended so that notes on group accounts include auditor's fees for audit and other services.	<ul style="list-style-type: none"> <li>- regulation 6 of the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2007;</li> <li>- regulation 4(2) of the Partnerships (Accounts) Regulations 2008;</li> <li>- regulation 4(2) of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008;</li> <li>- regulation 3(5) of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008;</li> <li>- Schedule 10C to the Building Societies Act 1986 (as inserted by Schedule 1 to the Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008);</li> <li>- Schedule 13F to the Friendly Societies Act 1992 (as inserted by Schedule 1 to the Friendly Societies Act 1992 (Accounts, Audit and EEA State Amendments) Order 2008);</li> <li>- <i>regulations to be made replacing the Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2004.</i></li> </ul>
<b>FINAL PROVISIONS</b>		
50	Directive 84/253/EEC (previous directive on audit) is repealed.	No implementation required.
51	Statutory auditor approved under Directive 84/253/EEC before this Directive is transposed to be considered as approved in accordance with this Directive.	Section 1219(b) and (c).
52	Member States may impose more stringent requirement, unless otherwise provided for in Directive.	No specific implementation required.
53	Member States must transpose Directive by 29 June 2008, and communicate main provisions of national law to Commission.	No specific implementation required.
54	Directive enters into force 20 days after publication.	No implementation required.

55	Directive addressed to the Member States.	No specific implementation required.
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*Department for Business, Enterprise and Regulatory Reform*  
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