
STATUTORY INSTRUMENTS

2019 No. 177

**The Statutory Auditors and Third Country Auditors
(Amendment) (EU Exit) Regulations 2019**

PART 2

Amendment of primary legislation

CHAPTER 2

Part 42 of the Companies Act 2006

Amendment of Part 42 of the Companies Act 2006

10. Part 42 of the Companies Act 2006 (statutory auditors) is amended in accordance with regulations 11 to 26.

11. In section 1210 (meaning of “statutory auditor” etc)—

(a) in subsection (1)(c)(ii)(1), for “regulated market” substitute “UK regulated market”;

(b) in subsection (3)—

(i) omit the definition of “bank”(2);

(ii) for the definition of “insurer” substitute—

““insurer” means a person who would be an insurance undertaking, as defined in Article 2(1) of Council [Directive 91/674/EEC](#) of 19 December 1991 of the European Parliament and of the Council on the annual accounts and consolidated accounts of insurance undertakings as that Article had effect immediately before exit day, were the United Kingdom a member State;”;

(iii) omit the definition of “regulated market”(3).

12. In section 1223A (notification of matters relevant to other EEA States)(4)—

(a) in the heading, for “other EEA States” substitute “approved third country competent authorities”;

(b) in subsection (2)—

(i) in paragraph (a), for “any other EEA State or part of an EEA State, implementing the Audit Directive” substitute “an equivalent third country or transitional third country”;

(ii) in paragraph (b), for “EEA State other than the United Kingdom” substitute “equivalent third country or transitional third country”;

(1) Section 1210(1)(c) was substituted by regulation 13(2)(a) of [S.I. 2017/516](#).

(2) The definition of “bank” was amended by paragraph 42(3) of Schedule 2 to [S.I. 2013/3115](#) and article 3(1) and Part 1 of the Schedule to [S.I. 2012/1809](#).

(3) The definition of “regulated market” was inserted by regulation 13(2)(b) of [S.I. 2017/516](#).

(4) Section 1223A was inserted by regulation 7(1) of [S.I. 2007/3494](#).

- (c) in subsection (3)—
- (i) in paragraph (a), for “an EEA auditor” substitute “a third country auditor that has been approved by an approved third country competent authority”;
 - (ii) in paragraph (b), for “EEA” substitute “approved third country”.
13. In section 1224A (restrictions on disclosure)(5), omit subsection (5).
14. After section 1240 (information to be made available to public), insert—

“CHAPTER 4A

Equivalent Third Countries and Transitional Third Countries

Power to approve third countries as equivalent or transitional third countries

1240A.—(1) The Secretary of State may by regulations grant to a third country, or make provision for the grant to a third country of—

- (a) approval as an equivalent third country,
- (b) provisional approval, for a period of up to seven years, as an equivalent third country, or
- (c) transitional approval, for a period of up to seven years, as a transitional third country,

in relation to the comparability of the third country’s audit regulatory regime to the audit regulatory regime of the United Kingdom.

- (2) Regulations under subsection (1) may (among other things)—
- (a) specify the procedure for assessing the audit regulatory regime of a third country;
 - (b) set out the considerations which must be taken into account, or may be taken into account, by the Secretary of State when determining—
 - (i) whether the third country has an audit regulatory regime comparable to that of the United Kingdom,
 - (ii) whether to grant approval, provisional approval or transitional approval, and
 - (iii) the period for which provisional approval or transitional approval should be granted;
 - (c) specify the procedure for the granting of approval, provisional approval or transitional approval;
 - (d) set out a list of third countries that have been granted approval, provisional approval or transitional approval;
 - (e) make provision for the amendment, suspension or withdrawal of approval, provisional approval or transitional approval.
- (3) In this section, “audit regulatory regime” in relation to a country or territory, means the system of public oversight, quality assurance, investigations and sanctions for auditors in that country or territory.
- (4) Regulations under this section are subject to negative resolution procedure.

CHAPTER 4B

Approved Third Country Competent Authorities

Power to approve third country competent authorities

1240B.—(1) The Secretary of State may by regulations grant to a third country competent authority, or make provision for the grant to a third country competent authority of—

- (a) approval as an approved third country competent authority, or
- (b) provisional approval, for a period of up to seven years, as an approved third country competent authority,

in relation to the exchange of audit working papers and investigation reports.

(2) Regulations under subsection (1) may (among other things)—

- (a) specify the procedure for assessing the adequacy of the third country competent authority, in relation to the authority's ability to co-operate with the competent authority on the exchange of audit working papers and investigation reports;
- (b) set out the considerations which must be taken into account, or may be taken into account, by the Secretary of State when determining—
 - (i) whether to grant approval or provisional approval, and
 - (ii) in relation to the granting of provisional approval, the period of the approval;
- (c) specify the procedure for the granting of an approval or a provisional approval;
- (d) set out a list of third country competent authorities that have been granted an approval or a provisional approval;
- (e) make provision for the amendment, suspension or withdrawal of an approval or a provisional approval.

(3) Regulations under this section are subject to negative resolution procedure.”.

15. In section 1241 (meaning of “registered third country auditor” and “UK-traded non-EEA company”)—

- (a) in the heading(6), for “UK-traded non-EEA company” substitute “UK-traded third country company”;
- (b) in subsection (2)(7)—
 - (i) for “UK-traded non-EEA company” substitute “UK-traded third country company”;
 - (ii) in paragraph (b), for “regulated market” substitute “UK regulated market” and omit “situated or operating in the United Kingdom”;
- (c) omit subsection (3)(8).

16. In section 1242 (duties of registered third country auditors)—

- (a) in subsection (1)(9), for “UK-traded non-EEA company” substitute “UK-traded third country company”;
- (b) in subsection (2)(a)(10), for “UK-traded non-EEA companies” substitute “UK-traded third country companies”.

(6) The heading for section 1241 was substituted by regulation 31(2) of [S.I. 2007/3494](#).

(7) Section 1241(2) was amended by regulation 31(4) of [S.I. 2007/3494](#).

(8) Subsection (3) was amended by paragraph 9(8)(a) and (b) of Schedule 4 to [S.I. 2017/701](#).

(9) Section 1242(1) was amended by regulation 32(2)(a) and (b) of [S.I. 2007/3494](#) and regulation 14 of [S.I. 2013/1672](#).

(10) Section 1242(2)9a) was amended by regulation 32(3) of [S.I. 2007/3494](#).

17. In section 1253A (requests to foreign competent authorities)(11), omit “an EEA competent authority or”.

18. In section 1253B (request from EEA competent authorities)(12)—

- (a) in the heading, for “EEA competent authorities” substitute “approved third country competent authorities”;
- (b) in subsection (1)(13)—
 - (i) for “EEA competent authority” substitute “approved third country competent authority”;
 - (ii) omit the words from “or a European supervisory authority (“the requesting authority”),” to the end;
- (c) after subsection (1), insert—
 - “(1A) Where the request includes a request for the transfer of audit working papers and investigation reports, the Secretary of State must act in accordance with section 1253D.”;
- (d) omit subsection (4)(14).

19. In section 1253C (notification to competent authorities of other EEA States)(15)—

- (a) in the heading, after “to” insert “approved third country” and omit “of other EEA States”;
- (b) in subsection (1)(16)—
 - (i) for “other EEA States” substitute “approved third country competent authorities”;
 - (ii) for “EEA competent authority” substitute “approved third country competent authority”;
- (c) in subsection (2)(17)—
 - (i) for “EEA competent authority” in both places substitute “approved third country competent authority”;
 - (ii) omit “in accordance with the Audit Directive”;
 - (iii) omit “required by EU law”;
- (d) in subsection (4)—
 - (i) for “EEA competent authority” substitute “approved third country competent authority”;
 - (ii) in paragraph (a), for “other EEA State or part of an EEA State, implementing the Audit Directive” substitute “equivalent third country or transitional third country, relating to audit”;
 - (iii) in paragraph (b), for “an EEA State other than the United Kingdom” substitute “an equivalent third country or transitional third country”;
- (e) in subsection (5)—
 - (i) for “EEA competent authority” in both places substitute “approved third country competent authority”;
 - (ii) for “EEA State” substitute “country or territory”.

(11) Section 1253A was inserted by regulation 14(1) of [S.I. 2007/3494](#).

(12) Section 1253B was inserted by regulation 14(1) of [S.I. 2007/3494](#).

(13) Subsection (1) was substituted by paragraph 41(2) of Schedule 3 to [S.I. 2016/649](#).

(14) Subsection (4) was substituted by paragraph 41(4) of Schedule 3 to [S.I. 2016/649](#).

(15) Section 1253C was inserted by regulation 14(1) of [S.I. 2007/3494](#). Subsection (2) was amended by article 6(2) of [S.I. 2011/1043](#).

(16) Subsection (1) was substituted by paragraph 42(2) of Schedule 3 to [S.I. 2016/649](#).

(17) Subsection (2) was amended by article 6(2) of [S.I. 2011/1043](#).

- 20.** In section 1253D (restriction on transfer of audit working papers to third countries)(**18**)—
- (a) in subsection (1)(**19**), for “except” substitute “unless the third country competent authority is an approved third country competent authority and the transfers are made”;
 - (b) omit subsection (2)(**20**).
- 21.** In section 1253DD (agreement of EEA competent authority)(**21**)—
- (a) in the heading, for “EEA competent authority” substitute “third country competent authority”;
 - (b) in subsection (1)(b)(i)(**22**), for “another EEA State” substitute “an equivalent third country or transitional third country”;
 - (c) in subsections (2) and (3), for “EEA competent authority” substitute “third country competent authority”.
- 22.** In section 1253DE(1)(a) (transfer by means of inspection)(**23**), omit “listed in section 1253D(2)(a), (f) or (g)”.
- 23.** In section 1253E (working arrangements for transfer of papers)(**24**)—
- (a) in subsection (4)—
 - (i) in paragraph (a), for “Article 29 of the Audit Directive (quality assurance)” substitute “regulation 9 of the Statutory Auditors and Third Country Auditors Regulations 2016(**25**)”;
 - (ii) in paragraph (b), for “Article 30 of the Audit Directive (investigations and penalties)” substitute “regulations 5 to 8 and 10 of the Statutory Auditors and Third Country Auditors Regulations 2016”;
 - (iii) in paragraph (c), for “Article 32 of the Audit Directive (principles of public oversight)” substitute “regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016”;
 - (b) in subsection (7), omit “of the European Union or”;
 - (c) omit subsections (8)(**26**) and (9).
- 24.** In section 1254(1)(a) (directions to comply with international obligations)(**27**), for “EU obligations” substitute “retained EU obligations”.
- 25.** In section 1261 (minor definitions)—
- (a) in subsection (1)—
 - (i) omit the definition of “the Audit Directive”(**28**);
 - (ii) in the definition of “audit working papers and investigation reports”(**29**), in paragraphs (a), (b) and (c) omit “, an EEA auditor”;

(18) Section 1253D was inserted by regulation 15(1) of [S.I. 2007/3494](#), and substituted by regulation 2 of [S.I. 2010/2537](#).

(19) Subsection (1) was amended by paragraph 43(2) of Schedule 3 to [S.I. 2016/649](#).

(20) Subsection (2) was amended by regulation 13(5) of [S.I. 2017/516](#).

(21) Section 1253DD was inserted by regulation 15(1) of [S.I. 2007/3494](#), and substituted by regulation 2 of [S.I. 2010/2537](#). Subsection (1) was amended by paragraph 47(1) of Schedule 3 to [S.I. 2016/649](#).

(22) Subsection (1) was amended by paragraph 47(1) of Schedule 3 to [S.I. 2016/649](#).

(23) Section 1253DE was inserted by regulation 15(1) of [S.I. 2007/3494](#), and substituted by regulation 2 of [S.I. 2010/2537](#). Subsection (1) was amended by paragraph 48(2) of Schedule 3 to [S.I. 2016/649](#).

(24) Section 1253E was inserted by regulation 15(1) of [S.I. 2007/3494](#), and substituted by regulation 3 of [S.I. 2010/2537](#).

(25) [S.I. 2016/649](#).

(26) Subsection (8) was amended by paragraph 49(2) of Schedule 3 to [S.I. 2016/649](#) and regulation 13(6) of [S.I. 2017/516](#).

(27) Section 1254(1)(a) was substituted by regulation 13(7)(a) of [S.I. 2017/516](#).

(28) The definition of “the Audit Directive” was inserted by regulation 2(2) of [S.I. 2007/3494](#).

(29) The definition of “audit working papers” was inserted by regulation 2(2) of [S.I. 2007/3494](#) and substituted to “audit working papers and investigation reports” by paragraph 51(2)(a) of Schedule 3 to [S.I. 2016/649](#).

- (iii) omit the definitions of “EEA auditor” and “EEA competent authority”(30);
- (iv) after the definitions of “parent undertaking” and “subsidiary undertaking”, insert—
 - ““regulated market” has the meaning given in Article 2(1)(13) of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 and amending Regulation (EU) No. 648/2012(31);”;
- (v) in the definition of “third country”(32), for “that is not an EEA State or part of an EEA State” substitute “other than the United Kingdom”;
- (vi) in the definition of “third country auditor”, omit “an EEA auditor or”;
- (vii) after the definition of “transfer”(33), insert—
 - ““transferable securities” has the meaning given in Article 2(1)(24) of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 and amending Regulation (EU) No. 648/2012;
 - “UK regulated market” has the meaning given in Article 2(1)(13A) of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 and amending Regulation (EU) No. 648/2012;”;
- (b) omit subsection (2A)(34).

26. In section 1262 (index of defined expressions), in the Table—

- (a) at the appropriate places, insert the following entries—

“approved third country qualification	section 1221(1)”;
“audit regulatory regime	section 1240A(3)”;
“equivalent third country	section 1240A(1)”;
“regulated market	section 1261(1)”;
“transferable securities	section 1261(1)”;
“transitional third country	section 1240A(1)”;
“UK regulated market	section 1261(1)”;

- (b) in the entry for “approved third country competent authority”(35), in the right-hand column for “section 1253D(2)” substitute “section 1240B(1)”;
- (c) in the entry for “Audit Directive”, in the right-hand column for “section 1261(1)” substitute “paragraph 20A of Schedule 10”;
- (d) in the entry for “EEA auditor”, in the right-hand column for “section 1261(1)” substitute “paragraph 20A of Schedule 10”;

(30) The definitions “EEA auditor” and “EEA competent authority” were inserted by regulation 2(2) of [S.I. 2007/3494](#).

(31) OJ No. L 173 12.06.2014, p. 84.

(32) The definition of “third country” was inserted by regulation 2(2) of [S.I. 2007/3494](#).

(33) The definition of “transfer” was inserted by regulation 6(4) of [S.I. 2010/2537](#), and amended by paragraph 51(2)(e) of Schedule 3 to [S.I. 2016/649](#).

(34) Section 1261(2A) was inserted by regulation 2(3) of [S.I. 2007/3494](#).

(35) The definition of “approved third country competent authority” was inserted by regulation 6(5) of [S.I. 2010/2537](#).

- (e) in the entry for “EEA competent authority”, in the right-hand column for “section 1261(1)” substitute “paragraph 20A of Schedule 10”;
- (f) in the entry for “UK-traded non-EEA company”(36), in the left-hand column for “UK-traded non-EEA company” substitute “UK-traded third country company”.

(36) The row containing the expression “UK-traded non-EEA company” was inserted by regulation 3(2) of [S.I. 2007/3494](#).