



COMPANIES ACT 1982

**REGISTER OF RECOGNISED AUDITORS
REGULATIONS 2010**

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COMPANIES ACT 1982

REGISTER OF RECOGNISED AUDITORS REGULATIONS 2010

Approved by Tynwald 16th March 2010

Coming into operation 5th April 2010

The Financial Supervision Commission makes these Regulations under section 14G of the Companies Act 1982¹.

1 Title

These Regulations are the Register of Recognised Auditors Regulations 2010.

2 Commencement

If approved by Tynwald², these Regulations come into operation on 5 April 2010.

3 Interpretation

In these Regulations —

“the Act” means the Companies Act 1982;

“the Commission” means the Financial Supervision Commission;

“the cost of oversight” means any fees payable by the recognised auditor to the ICAEW, the POB or the Commission in relation to its oversight, monitoring or registration as a recognised auditor;

¹ 1982 c.2

² As required by section 14G(9) of the Act. Section 14G was inserted by section 18 of the Companies (Amendment) Act 2009.

“exempt company” means –

- (a) a company which is an issuer exclusively of debt securities admitted to trading on a regulated market, the denomination per unit of which is at least Euro 50,000 (or the equivalent at the date of issue denominated in another currency); or
- (b) an open-ended investment company defined in section 26 of the Collective Investment Schemes Act 2008³;

“the ICAEW” means the Institute of Chartered Accountants in England and Wales;

“incorporated in the Island” includes companies incorporated, formed and registered or capable of being wound up under the Companies Act 1931⁴, and companies incorporated or continued under the Companies Act 2006⁵ and limited liability companies formed under the Limited Liability Companies Act 1996⁶;

“market traded company” means a company incorporated in the Island, the transferable securities of which are admitted to trading on a regulated market, except where that company is an exempt company;

“the POB” means the Professional Oversight Board of the UK’s Financial Reporting Council;

“recognised accountancy body” has the same meaning as in section 14F of the Act;

“recognised auditor” means an auditor that is entered on the register;

“the register” means the register of recognised auditors to be kept under section 14G of the Act;

“regulated market” has the same meaning as in Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments⁷ amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EEC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC;

³ 2008 c.7

⁴ XIII p.235

⁵ 2006 c.13

⁶ 1996 c.19

⁷ OJL 145,30.04.2004, p.1; see article 4.1(14)

“responsible individual” means an individual, designated by the recognised auditor, who is responsible for audit work on a recognised auditor’s behalf, who is permitted to sign audit reports for the recognised auditor and whose name is entered on the register;

“the Rules” means the Crown Dependencies’ Audit Rules and Guidance issued by the ICAEW from time to time (that is after as well as before the making of these Regulations), and which are issued for the purpose of ensuring that a recognised auditor, when auditing a market traded company, is subject in the Island to a system of oversight, quality assurance, investigation and penalties;

“transferable securities” has the same meaning as in Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments⁸ amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EEC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC.

4 Register of recognised auditors

- (1) The Commission shall establish and maintain a register of recognised auditors in which there shall be entered all persons who –
 - (a) under regulation 5 are auditors eligible to be entered on the register;
 - (b) have applied to and been approved by the Commission to be entered on the register using the form provided by the Commission for this purpose; and
 - (c) have paid the application fee or annual fee prescribed in regulation 6(2) or 8(2).
- (2) In order to withdraw from the register a recognised auditor must notify the Commission in writing of the intention to deregister, including details of any information material to the deregistration.

5 Eligibility for entry on the register

An auditor is eligible to be entered on the register if –

- (a) the auditor is qualified for appointment as auditor of companies under sections 14 to 14H of the Act (being companies within the meaning of the Companies Act 1931 or the Companies Act 2006);

⁸ OJL 145,30.04.2004, p.1; see article 4.1(18)

- (b) all responsible individuals of the auditor are members of a recognised accountancy body and are permitted by that body to engage in public practice;
- (c) the auditor and all responsible individuals of the auditor agree to be bound by and to comply with the Rules when auditing the accounts of market traded companies;
- (d) all responsible individuals of the auditor have been designated by the auditor as competent to audit the accounts of a market traded company.

6 Application for entry on the register

- (1) An application for entry on the register must be made by the auditor using the application form provided for this purpose by the Commission, and must be accompanied by such information and documents in support of the application as the Commission may require.
- (2) An auditor will be only entered on the register if prior to the first year of registration a non-refundable application fee of £1000 has been paid.
- (3) An application for registration may be accepted or refused at the discretion of the Commission.
- (4) An application for registration may be accepted subject to conditions.
- (5) If an application for registration has been accepted, the Commission may at any time –
 - (a) withdraw or suspend the registration;
 - (b) make the registration subject to conditions or further conditions; or
 - (c) vary or withdraw any condition.
- (6) Section 32 of the Financial Services Act 2008⁹ (appeals to the Financial Services Tribunal) shall apply in respect of a decision of the Commission under paragraphs (3) to (5) as it applies in respect of a decision referred to in that section.
- (7) The current auditor of a market traded company at the time these Regulations come into operation (“the operative date”), may continue to audit that company subject to its making an application for entry on the register within 3 months of the operative date, and until –

⁹ 2008 c.8

- (a) the end of the period within which an appeal can be brought under paragraph (6) against the decision on the application; or
- (b) where an appeal is brought, the determination or withdrawal of the appeal.

7 Actions relating to entry on the register

- (1) An entry on the register may be suspended, withdrawn or made subject to conditions or further conditions.
- (2) The circumstances when the action in paragraph (1) may be taken include, but are not limited to, the Commission being–
 - (a) informed by a recognised accountancy body, the POB or the ICAEW that the recognised auditor or any responsible individual is not or is no longer a member of the body or for any other reason is not eligible to be entered on the register;
 - (b) satisfied that the recognised auditor or a responsible individual is not or is no longer competent or fit and proper to act as recognised auditor or responsible individual;
 - (c) otherwise satisfied that the recognised auditor or any responsible individual is not or is no longer eligible to be entered on the register;
 - (d) informed by a recognised accountancy body, the POB or the ICAEW that the recognised auditor or any responsible individual has been subject to that body's disciplinary procedures resulting in an adverse finding;
 - (e) informed by the POB or the ICAEW that the recognised auditor or any responsible individual has breached any of the Rules to a significant extent;
 - (f) satisfied that a condition in relation to the registration has been breached;
 - (g) satisfied that the recognised auditor has not paid the costs of oversight under the Public Oversight of Recognised Auditors Regulations 2010¹⁰ to the ICAEW or the POB.

8 Annual confirmation of entry on the register

- (1) Notwithstanding regulation 9, annually and not less than 14 days prior to the anniversary of the date of first entry on the register, the recognised auditor must confirm to the Commission, using the annual return form provided by the Commission for this purpose, that the full details held within the register remain accurate. If this is not the case the recognised auditor must provide accurate information on that form.

¹⁰ SD 08/10

- (2) An auditor shall only remain entered on the register if prior to any subsequent year for which registration is to continue a non-refundable annual fee of £750 has been paid.

9 Notifications

- (1) A recognised auditor must notify the Commission immediately in writing of any the following –
 - (a) the recognised auditor ceasing to be eligible to be entered on the register;
 - (b) the termination of the appointment of any responsible individual or any responsible individual ceasing to be eligible to hold that role in respect of the recognised auditor;
 - (c) a recognised accountancy body initiating an investigation against any responsible individual that results in an adverse finding;
 - (d) any reasonable grounds it has for suspecting that it or a responsible individual has contravened the law of the Island or of the United Kingdom, or of any other EEA State or part of an EEA State which has implemented Directive 2004/39/EC of the European Parliament and of the Council on markets in financial instruments;
 - (e) a request for the addition of a responsible individual to the register entry.
- (2) The notification required by paragraph (1) must be accompanied by such information and documents as the Commission may reasonably require.
- (3) Notwithstanding paragraph (1), the Commission may by notice in writing require a recognised auditor to provide, in the form and manner specified in the notice, any other information reasonably required for the exercise of the functions conferred on it by sections 14G or 17B of the Act, or section 80D of the Companies Act 2006, within a specified time and in respect of specified periods.

10 Content of register

The register shall contain the information specified in the Schedule.

11 Public inspection of register

The register shall be available for public inspection in visible and legible form —

- (a) on the Commission's website; and
- (b) at the offices of the Commission whenever those offices are open for business.

Made 27th January 2010.

John Cashen

Commissioner

John Aspden

Chief Executive

SCHEDULE

CONTENT OF REGISTER

[regulation 10]

The register shall contain the following particulars of each recognised auditor –

- (a) the name of the recognised auditor;
- (b) the business address of the recognised auditor;
- (c) in the case of a recognised auditor that is a body corporate, the name and business address of each director resident in the Isle of Man;
- (d) in the case of a recognised auditor that is a limited liability company, the name and business address of each member resident in the Isle of Man;
- (e) in the case of a recognised auditor that is a partnership, the name and business address of each partner or member resident in the Isle of Man;
- (f) in the case of a recognised auditor that is an unincorporated body other than a partnership, the name and business address of each member of the governing body (of whatever description) resident in the Isle of Man;
- (g) the date when the recognised auditor was first entered on the register;
- (h) any conditions to which the entry on the register is subject;
- (i) a reference number for the entry;
- (j) the name of all responsible individuals (wherever resident) together with those persons' business addresses if different to the address of the recognised auditor;
- (k) the date when any current responsible individual was first entered on the register;
- (l) the name of the recognised accountancy body that each responsible individual is a member of.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the keeping by the Financial Supervision Commission of a register of recognised auditors. At present, only auditors that audit market traded companies (as defined in the Regulations) are required to be registered. The Regulations deal with matters such as application for entry on the register, notifications, the contents of the register and its inspection.