

Financial Supervision Commission Audit Requirements Regulatory Code

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FINANCIAL SUPERVISION COMMISSION

AUDIT REQUIREMENTS

REGULATORY CODE

The following Code is issued by the Financial Supervision Commission in exercise of the powers conferred on it by Section 6 of the Investment Business Act 1991 and all other powers enabling it in that behalf. All correspondence relating to this Code should be addressed initially to the Financial Supervision Commission.

Adopted by Financial Supervision Commission on 14 November 1991, with amendments adopted on 13 February 1992, 27 March 1996 and 13 March 1997.

Approved by Tynwald on 10 December 1991, 17 March 1992, 21 May 1996 and 17 June 1997.

Price: 70p

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1. CITATION, COMMENCEMENT, INTERPRETATION AND APPLICATION

1.1 Citation and Commencement

This Code may be cited as the "Financial Supervision Commission (Audit Requirements) Regulatory Code" and shall come into operation on 1st December 1991.

1.2 Interpretation

A Guidance Note appended to a paragraph gives guidance as to how the Commission considers it would operate in particular circumstances. It is not part of the Code.

The Interpretation Act 1976 applies to the interpretation of this Code and, unless the context otherwise requires, expressions defined therein have the same meanings when used in this Code.

The glossary contained in the Financial Supervision Commission (General Requirements) Regulatory Code applies to the interpretation of this Code.

1.3 Application

This Code applies to all holders of investment business licences, issued under Section 3 of the Investment Business Act 1991, except licenceholders who are authorised only to conduct Category 1 investment business (as defined by the Financial Supervision Commission (Financial Resources and Reporting) Regulatory Code 6.1 or Category 5 investment business (as defined by the Financial Supervision Commission (Stockbrokers) Regulatory Code 1.2).

2. APPOINTMENT

2.1 Subject to Code 24 each licenceholder (other than licenceholders conducting Category 1 investment business) shall have in office at all times an auditor who is properly qualified and eligible to act in accordance with this Code.

2.2 Subject to Code 2.3, a person is not properly qualified to act as an auditor of a licenceholder unless he is a member of one or more of the following bodies and is covered by Professional Indemnity insurance of not less than £10 million:-

The Institute of Chartered Accountants in England and Wales;
The Institute of Chartered Accountants of Scotland;
The Institute of Chartered Accountants in Ireland;
The Chartered Association of Certified Accountants.

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Guidance Note

The Commission will also seek to satisfy itself that the audit firm has adequate resources available to conduct audits and that the partner responsible for the audit has adequate knowledge of and experience in the audit of investment businesses.

- 2.3 An individual is ineligible to act as an auditor, or as the principal directly responsible in the firm for the audit, of a licenceholder if he, or his firm, is:-
- (a) a director, partner, controller, officer, tied agent or employee of the licenceholder;
 - (b) a partner of, or in the employment of, any person in (a) above;
 - (c) a spouse, parent, step-parent, child, step-child or other close relative of any person in (a) above;
 - (d) a person who is not otherwise independent of the licenceholder, having regard to the statements of professional practice issued from time to time by the body of accountants of which he is a member; or
 - (e) a person disqualified by the Commission from acting as an auditor of a licenceholder;

and for this purpose an auditor shall not be regarded as an officer or employee of the licenceholder solely by reason of being auditor of that licenceholder.

Guidance Note

The Commission recognises that there may be circumstances where an accountancy firm wishes to act as the auditor of a licenceholder, but where one of the firm's employees is a spouse, parent, step-parent, child, step- child or close relative of any person in (a) above. In such circumstances, the Commission expects the accountancy firm to organise its affairs in such a way that the individual employee concerned is not engaged or involved in carrying out the audit of the licenceholder concerned.

- 2.4 If at any time the licenceholder fails to have an auditor in office for a period exceeding four weeks the Commission shall be entitled to appoint a person to fill the vacancy, the fees and charges so incurred being payable by the licenceholder.
- 2.5 Engagement Letter

A licenceholder shall obtain from its auditor an engagement letter which will:-

- (a) define clearly the extent of the rights and duties of the auditor, which will include those set out in Codes 3.2, 4 and 5; and
- (b) be signed and accepted in writing by or on behalf of each of the licenceholder and the auditor before the commencement of the appointment.

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3. NOTIFICATION

- 3.1 A licenceholder must give notice to the Commission in writing of the name, address and qualifications of an auditor forthwith upon his appointment and of any removal or resignation from office of an auditor and the reasons (if any) for that removal or resignation, forthwith following his ceasing to hold office.
- 3.2 Where an auditor resigns or is removed by the licenceholder or is not reappointed at the end of his term in office, the notice given under Code 3.1 must contain a statement signed by the auditor stating either:-
- (a) that there are no circumstances connected with his ceasing to hold office which the auditor considers should be brought to the attention of the Commission; or
 - (b) the circumstances connected with his ceasing to hold office.
- 3.3 A licenceholder shall notify the Commission forthwith where it has reason to believe that its auditor is likely to qualify his report on the annual financial statements of the licenceholder.
- 3.4 Within two months after the date on which a licenceholder is required to submit its annual financial statements to the Commission it shall inform the Commission -
- (a) whether the licenceholder has received a management letter from its auditor in respect of its audit of the annual financial statements most recently submitted by the licenceholder to the Commission which contained any recommendations to the firm to remedy any weakness in the systems and internal controls of the firm; and
 - (b) whether the licenceholder has implemented or is implementing those recommendations, and if not, the reasons for that decision.

4. RIGHTS AND DUTIES

- 4.1 A licenceholder shall afford an auditor the right of access at all times to its accounting and other records and the right to obtain from the officers, controllers and managers of the licenceholder such information and explanations as the auditor may consider necessary in the performance of his duties.
- 4.2 A licenceholder shall permit and require his auditor to provide to the Commission such information and opinions as the Commission requests, being information or opinions relevant to the functions of the Commission.
- 4.3 In addition to the accounting records required for the purposes of Section 1 of the Companies Act 1982 the licenceholder shall treat all written communication to and from the Commission in the exercise of its functions under the Investment Business Act 1991 as part of its accounting records.

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Guidance Note

In order to assist auditors, licenceholders might find it helpful to maintain a file containing copies of correspondence with the Commission.

5. CONTENTS OF AUDIT REPORTS

- 5.1 The auditor's report on the annual financial statements, addressed to the Commission, shall state whether:-
- (a) the annual financial statements of the licenceholder have been audited in accordance with Auditing Standards; and
 - (b) the auditor has received all the information and explanations which, to the best of his knowledge and belief, were necessary for the purposes of his audit.
- 5.2 The auditor's report shall also state whether, in the auditor's opinion:-
- (a) the annual financial statements have been properly prepared in accordance with the Financial Supervision Commission (Financial Resources and Reporting) Regulatory Code;
 - (b) the annual financial statements give a true and fair view of the state of the affairs of the licenceholder as at the balance sheet date, and of the profit or loss for the financial year ended on that date;
 - (c) the balance sheet and profit and loss account are in agreement with the licenceholder's accounting records;
 - (d) proper accounting records appropriate to the business carried on by the licenceholder have been maintained throughout the financial year;
 - (e) the reconciliation referred to in the Financial Supervision Commission (Financial Resources and Reporting) Regulatory Code (Code 9.4) has been properly prepared;
 - (f) the licenceholder's Specific Requirements have been properly calculated in accordance with the Financial Supervision Commission (Financial Resources and Reporting) Regulatory Code (Code 3);
 - (g) the licenceholder's Financial Resources have been properly calculated in accordance with the Financial Supervision Commission (Financial Resources and Reporting) Regulatory Code (Code 4); and exceed the licenceholder's Specific Requirements (Code 3);
 - (h) the licenceholder has maintained throughout the financial year systems adequate to have enabled it to comply with the Financial Supervision Commission (Clients' Investments) Regulatory Code and the Financial Supervision Commission (Clients' Money) Regulatory Code and was in compliance with those Codes at the balance sheet date; and

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- (i) reconciliations of Clients' Money and Clients' Investments have been performed in accordance with these Codes.

Guidance Note

Reference to the term "accounting records" throughout this Code 5.2 means those records kept in accordance with the Financial Supervision Commission (Financial Resources and Reporting) Regulatory Code (Code 7) and the Financial Supervision Commission (Conduct of Business) Regulatory Code (Codes 8.5.1 to 8.5.4).

- 5.3 Where, in the auditor's opinion, one or more of the requirements in respect of which the auditor is required to report under Codes 5.1 and 5.2 have not been met, the report shall include a statement specifying the relevant requirements and the respects in which they have not been met.

Guidance Note

The auditor during his work may come across trivial breaches of the Regulatory Codes. The Commission does not expect the auditor to report on these where the licenceholder has rectified the breaches upon discovery, the breaches are not of a recurring nature, and they have caused no loss to any client.

- 5.4 Where the auditor is unable to form an opinion as to whether one or more of the requirements in respect of which the auditor is required to report under Codes 5.1 and 5.2 have been met, the report shall specify those requirements and give the reasons why the auditor has been unable to form an opinion.