

Disclaimer: This document was created by the Isle of Man Financial Services Authority (“the Authority”) to assist recognised auditors and other readers. The Authority accepts no liability for the document’s completeness and accuracy. Original legislation should always be consulted for legal purposes.

Statutory Document No. 08/10 amended by SD 0307/2013,
SD 2016/0102, SD 2017/0323 and SD 2019/0097

COMPANIES ACT 1982
COMPANIES ACT 2006

**PUBLIC OVERSIGHT OF RECOGNISED
AUDITORS REGULATIONS 2010**

Approved by Tynwald 16 March 2010

Coming into operation 5 April 2010

(amendments in operation from 1 November 2013: SD 0307/2013)

(amendments in operation from 1 June 2016: SD 2016/0102)

(amendments in operation from 1 January 2018: SD 2017/0323)

(amendments in operation from 31 January 2020: SD 2019/0097¹)

The Isle of Man Financial Services Authority makes these Regulations under section 17B of the Companies Act 1982² and section 80D of the Companies Act 2006³.

1 Title

These Regulations are the Public Oversight of Recognised Auditors Regulations 2010.

2 Commencement

If approved by Tynwald⁴, these Regulations come into operation on 5 April 2010.

3 Interpretation

In these Regulations —

“the Act” means the Companies Act 1982;

¹ SD 2019/0097 in operation from ‘exit day’ – per European Union and Trade Act 2019.

² 1982 c.2. Section 17B was inserted by section 19 of the Companies (Amendment) Act 2009.

³ 2006 c.13. Section 80D was inserted by section 29 of the Companies (Amendment) Act 2009.

⁴ As required by section 17B(9) of the Act and section 80D(9) of the Companies Act 2006.

Disclaimer: This document was created by the Isle of Man Financial Services Authority (“the Authority”) to assist recognised auditors and other readers. The Authority accepts no liability for the document’s completeness and accuracy. Original legislation should always be consulted for legal purposes.

“the Authority” means the Isle of Man Financial Services Authority;

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

“exempt company” means —

(a) a company which is an issuer exclusively of outstanding debt securities admitted to trading on a UK regulated market or an EU regulated market, the denomination per unit of which is, at the date of issue, at least —

(i) Euro 50,000 (or the equivalent at the date of issue denominated in another currency) for a company admitted to trading on a UK regulated market or an EU regulated market before 31 December 2010; or

(ii) Euro 100,000 (or the equivalent at the date of issue denominated in another currency) for a company admitted to trading on a UK regulated market or an EU regulated market from 31 December 2010; or

(b) an open-ended investment company defined in section 26 of the Collective Investment Schemes Act 2008;

“EU regulated market” means a regulated market as defined in Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, as amended from time to time by EU law (whether before, on or after exit day);

“exit day” has the same meaning as in the European Union and Trade Act 2019;

“the FRC” means The Financial Reporting Council Limited⁵ (or any successor thereto);

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

⁵ UK company 2486368

Disclaimer: This document was created by the Isle of Man Financial Services Authority ("the Authority") to assist recognised auditors and other readers. The Authority accepts no liability for the document's completeness and accuracy. Original legislation should always be consulted for legal purposes.

"incorporated in the Island" includes companies incorporated, formed and registered or capable of being wound up under the Companies Act 1931⁶, and companies incorporated or continued under the Companies Act 2006 and limited liability companies formed under the Limited Liability Companies Act 1996⁷;

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

"recognised auditor" has the same meaning as in regulation 3 of the Register of Recognised Auditors Regulations 2010⁸;

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

"responsible individual" has the same meaning as in regulation 3 of the Register of Recognised Auditors Regulations 2010;

"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" —

(a) in respect of transferable securities which are admitted to trading on an EU regulated market, has the meaning given in Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, as amended from time to time by EU law (whether before, on or after exit day);

(b) in respect of transferable securities which are admitted to trading on a UK regulated market, has the meaning given in

⁶ XIII p.235

⁷ 1996 c.19

⁸ SD 07/10

Disclaimer: This document was created by the Isle of Man Financial Services Authority (“the Authority”) to assist recognised auditors and other readers. The Authority accepts no liability for the document’s completeness and accuracy. Original legislation should always be consulted for legal purposes.

Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 and amending Regulation (EU) No. 648/2012, as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 (of Parliament) and as amended from time to time by that law.

“UK regulated market” has the meaning given in Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 and amending Regulation (EU) No. 648/2012, as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 (of Parliament) and as amended from time to time by that law.

4 Appointment of the UK’s Financial Reporting Council

- (1) The Authority appoints the FRC as a body to provide the public oversight of recognised auditors on the Authority’s behalf.
- (2) For the purposes of paragraph (1) the public oversight of recognised auditors includes –
 - (a) subjecting recognised auditors to the FRC’s systems of quality assurance, investigations and penalties;
 - (b) overseeing the monitoring work of the ICAEW as specified in regulation 5;
 - (c) reporting to the Authority annually in writing.
- (3) Without limiting paragraph (2), reports under paragraph (2)(c) must specify –
 - (a) the work it has undertaken in relation to the public oversight of recognised auditors during the preceding year;
 - (b) the outcome of any inspections during that period;
 - (c) details of any penalties it has applied to recognised auditors during that period.

5 Appointment of the Institute of Chartered Accountants in England and Wales

- (1) The Authority appoints the ICAEW as a body to monitor recognised auditors on the Authority’s behalf.
- (2) For the purposes of paragraph (1) the monitoring of recognised auditors includes –

Disclaimer: This document was created by the Isle of Man Financial Services Authority ("the Authority") to assist recognised auditors and other readers. The Authority accepts no liability for the document's completeness and accuracy. Original legislation should always be consulted for legal purposes.

- (a) monitoring of recognised auditors' compliance with the Rules;
 - (b) conducting inspections of recognised auditors;
 - (c) taking disciplinary action, including the application of penalties, where necessary against recognised auditors or responsible individuals;
 - (d) reporting to the Authority annually in writing.
- (3) Without limiting paragraph (2), reports under paragraph (2)(c) must specify –
- (a) the work it has undertaken in relation to the monitoring of recognised auditors during the preceding year;
 - (b) the outcome of any inspections during that period;
 - (c) details of any penalties it has applied to recognised auditors or responsible individuals during that period.
- (4) Nothing contained in paragraphs (1) and (2)(c) shall prevent the Authority from directing the ICAEW to apply penalties.

6 Requirements of recognised auditors

- (1) Recognised auditors are subject to the public oversight of the FRC, and must comply with its requirements, including its disciplinary procedures.
- (2) Recognised auditors are subject to the monitoring of the ICAEW, and must comply with its requirements, including its disciplinary procedures.
- (3) Recognised auditors when auditing the accounts of a market traded company –
 - (a) are bound by and must comply with the Rules;
 - (b) must maintain the working papers relating to the audit of the company in English; and
 - (c) must make those working papers available to the Authority, the ICAEW or the FRC on demand.
- (4) Recognised auditors must pay the costs of oversight.

7 Matters to be notified by the FRC or the ICAEW

- (1) The ICAEW and the FRC must notify the Authority immediately in writing –
 - (a) if it becomes aware that a recognised auditor or responsible individual has ceased to be eligible to be entered on the register; and

Disclaimer: This document was created by the Isle of Man Financial Services Authority (“the Authority”) to assist recognised auditors and other readers. The Authority accepts no liability for the document’s completeness and accuracy. Original legislation should always be consulted for legal purposes.

- (b) of the reasons (to the best of its knowledge) for the loss of eligibility; and
 - (c) of any reasonable grounds it has for suspecting that a recognised auditor or responsible individual has contravened the law of –
 - (i) the Island;
 - (ii) the United Kingdom; or
 - (iii) any EEA State or part of an EEA State which has implemented Directive 2004/39/EC or Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments.
- (2) Despite paragraph (1), the Authority may by notice in writing require the FRC or ICAEW to notify to it any other information it may reasonably require for the exercise of the functions conferred by section 17B of the Act or section 80D of the Companies Act 2006, within such reasonable time, in respect of such periods, given in such form and verified in such manner as it may specify in that written notice.

Made 27th January 2010

John Cashen

Commissioner

John Aspden

Chief Executive

Disclaimer: This document was created by the Isle of Man Financial Services Authority (“the Authority”) to assist recognised auditors and other readers. The Authority accepts no liability for the document’s completeness and accuracy. Original legislation should always be consulted for legal purposes.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the appointment of The Financial Reporting Council Limited (formerly the Professional Oversight Board (“POB”) of the UK’s Financial Reporting Council⁹) by the Isle of Man Financial Services Authority (“the Authority”) to provide the public oversight of recognised auditors on the Authority’s behalf. They prescribe what the public oversight includes, the matters to be notified by the FRC to the Authority and for an annual report to be made to the Authority by the FRC.

The Regulations also provide for the appointment of the Institute of Chartered Accountants in England and Wales (“the ICAEW”) by the Authority to monitor recognised auditors on the Authority’s behalf. They prescribe what the monitoring includes, the matters to be notified by the ICAEW to the Authority and for an annual report to be made to the Authority by the ICAEW.

Regulation 6 lists the requirements of recognised auditors in relation to the public oversight and monitoring.

Amendments made in March 2019 mean the regime will apply to market traded companies that are admitted to trading on either UK or EU regulated markets after the UK’s withdrawal from the EU.

⁹ Amended by SD 0307/2013