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Statutory Document No. 07/10 amended by SD 0307/2013,
SD 2016/0102, SD 2017/0323 and SD 2019/0097

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 16 March 2010
Coming into operation 5 April 2010: SD 07/10
(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 exit day: SD 2019/0097¹)

The Isle of Man Financial Services Authority makes these Regulations under section 14G of the Companies Act 1982².

1 Title

These Regulations are the Register of Recognised Auditors Regulations 2010.

2 Commencement

If approved by Tynwald³, these Regulations come into operation on 5 April 2010.

3 Interpretation

In these Regulations —

“the Act” means the Companies Act 1982;

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

¹ Amendments in red come into effect on ‘exit day’ - SD 2019/0097: European Union and Trade Act 2019 (Deficiencies) (Isle of Man Financial Services Authority) Regulations 2019, made by the Council of Ministers under the European Union and Trade Act 2019.

² 1982 c.2

³ As required by section 14G(9) of the Act. Section 14G was inserted by section 18 of the Companies (Amendment) Act 2009.

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“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 regulated market~~ 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 regulated market~~ 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 regulated market~~ 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 Limited⁴ (or any successor thereto);

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

⁴ UK company 2486368

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"incorporated in the Island" includes companies incorporated, formed and registered or capable of being wound up under the Companies Act 1931⁵, and companies incorporated or continued under the Companies Act 2006⁶ 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 regulated market~~ UK regulated market or an EU regulated market, except where that company is an exempt company;

"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 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;~~

"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;

⁵ XIII p.235

⁶ 2006 c.13

⁷ 1996 c.19

~~OJL L145,30.04.2004, p.1; see article 4.1(14)~~

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~~"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 instruments⁹ 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.~~

"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 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 Register of recognised auditors

- (1) The Authority 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 Authority to be entered on the register using the form provided by the Authority for this purpose; and
 - (c) have paid the fee(s) prescribed in regulation 6(2), 8(2) or 9(2A), as applicable.

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- (2) In order to withdraw from the register a recognised auditor must notify the Authority 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);
- (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 Authority, and must be accompanied by such information and documents in support of the application as the Authority 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 £1,170 has been paid¹⁰.
- (3) An application for registration may be accepted or refused at the discretion of the Authority.
- (4) An application for registration may be accepted subject to conditions.
- (5) If an application for registration has been accepted, the Authority may at any time —

¹⁰ Increased from £1,000 on 1 January 2018

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- (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 2008¹¹ (appeals to the Financial Services Tribunal) shall apply in respect of a decision of the Authority 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 —
- (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 Authority being —
- (a) informed by a recognised accountancy body, the FRC 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;

¹¹ 2008 c.8

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- (d) informed by a recognised accountancy body, the FRC 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 FRC 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 2010¹² to the ICAEW or the FRC.

8 Annual confirmation of entry on the register

- (1) Notwithstanding regulation 9, annually as at 1 September¹³, the recognised auditor must confirm to the Authority, using the annual return form provided by the Authority 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.
- (2) An auditor shall only remain entered on the register if a non-refundable annual fee of £880 has been paid¹⁴.
- (3) The annual return form in paragraph (1) and the annual fee in paragraph (2) must be received by the Authority by 15 September each year.¹⁵

9 Notifications

- (1) A recognised auditor must notify the Authority immediately in writing of any the following –
 - (a) the recognised auditor ceasing to be eligible to be entered on the register;

¹² SD 08/10

¹³ On 1 November 2013 “as at 1 September” was substituted for “and not less than 14 days prior to the anniversary of the date of first entry on the register”

¹⁴ Until 1 November 2013 the words “prior to any subsequent year for which registration is to continue” appeared between “if” and “a”. Fee increased from £750 on 1 January 2018.

¹⁵ Paragraph (3) was added 1 November 2013.

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- (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;~~
 - (d) any reasonable grounds it has for suspecting that it or a responsible individual has contravened the law of —
 - (i) the Island;
 - (ii) the United Kingdom; or
 - (i)(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;
 - (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 Authority may reasonably require.
- (2A) A request for the addition of a responsible individual under paragraph (1)(e) must be accompanied by payment of a fee of £100 per responsible individual¹⁶.
- (3) Notwithstanding paragraph (1), the Authority 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.

¹⁶ Fee introduced on 1 January 2018

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11 Public inspection of register

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

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

Made 27th January 2010.

John Cashen

Commissioner

John Aspden

Chief Executive

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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.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the keeping by the Authority 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.

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.