Draft Order laid before Parliament under section 82(2) of the Freedom of Information Act 2000, section 24(9) of the Legislative and Regulatory Reform Act 2006 and section 208(2) and (8) of the Equality Act 2010, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2021 No.

EQUALITY

FREEDOM OF INFORMATION

REGULATORY REFORM

The Financial Reporting Council (Miscellaneous Provisions) Order 2021

Made - - - - ***

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 5(1)(a) and (2) and 7(5) of the Freedom of Information Act 2000(**a**) ("the 2000 Act"), section 24(2) of the Legislative and Regulatory Reform Act 2006(**b**) ("the 2006 Act") and section 151(1) of the Equality Act 2010(**c**) ("the 2010 Act").

In accordance with section 5(3) of the 2000 Act, the Secretary of State has consulted representatives of the person to whom this Order relates.

In accordance with section 24(6) of the 2006 Act, the Secretary of State has consulted the person whose functions are specified in this Order and such other persons as the Secretary of State considered appropriate.

In accordance with section 152(1) of the 2010 Act, the Secretary of State has consulted the Commission for Equality and Human Rights. In accordance with section 151(8) of that Act, the Secretary of State considers that the extension of the application of section 149 relates to a person by whom a public function is exercisable.

In accordance with section 82(2)(a) of the 2000 Act, section 24(9) of the 2006 Act and section 208(2) and (8) of the 2010 Act, a draft of this Order was laid before Parliament and approved by resolution of each House of Parliament.

(**a**) 2000 c. 36; section 5 was amended by S.I. 2003/1887; there are other amendments to this section but none are relevant to this Order.
(**b**) 2006 c. 51.
(**c**) 2010 c. 15.

Citation and commencement

1. This Order may be cited as the Financial Reporting Council (Miscellaneous Provisions) Order 2021 and comes into force on 6th April 2021 or, if later, the day after the day on which it is made.

Amendment to the Equality Act 2010

2.—(1) Part 1 of Schedule 19 to the Equality Act 2010 (public authorities: general)(**a**) is amended as follows.

(2) Under the heading "Industry, business, finance etc", after the "Financial Conduct Authority", insert—

"The Financial Reporting Council Limited(**b**).".

Amendment to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007

3.—(1) The Legislative and Regulatory Reform (Regulatory Functions) Order 2007(**c**) is amended as follows

(2) In Part 1 of the Schedule, after the "Financial Conduct Authority", insert—

"The Financial Reporting Council Limited, other than regulatory functions which are functions it had delegated under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016(**d**) as at 6th April 2021".

Person designated as a public authority under the Freedom of Information Act 2000

4.—(1) The Financial Reporting Council Limited is designated as a public authority under section 5(1)(a) of the Freedom of Information Act 2000 with respect to the following of its functions—

(a) monitoring the compliance of issuers of transferrable securities with accounting requirements in Part 6 rules in accordance with section 14 of the Companies (Audit, Investigations and Community Enterprise) Act 2004(**e**);

(b) ensuring that the provision of financial information in accounts complies with Companies Act requirements in accordance with section 456 of the Companies Act 2006(**f**);

(c) the issuing of accounting standards in accordance with section 464 of the Companies Act 2006(**g**) and the interpretation of those standards;

(d) the provision, development, operation and maintenance of a public register of third country auditors in accordance with the Statutory Auditors and Third Country Auditors Regulations 2013(**h**);

(e) the public oversight of statutory auditors under the 2016 Regulations;

(**a**) Schedule 19 has been amended by S.I. 2011/1060 and paragraph 131(a) of Schedule 18 to the Financial Services Act 2012 (c. 21) ("the 2012 Act"); there are other amendments to Schedule 19, but none are relevant to this Order.

(**b**) A company registered in England and Wales with number 02486368.

(**c**) S.I. 2007/3544. This instrument is amended by S.I. 2013/472; there are other amendments, but none are relevant to this Order.

(**d**) S.I. 2016/649. Regulation 3 is amended by S.I. 2019/177.

(**e**) 2004 c. 27. Section 14 is amended by S.I. 2005/1433, paragraph 14 of Schedule 15 to the Companies Act 2006 and paragraph 103 of Schedule 18 to the 2012 Act. The Conduct Committee of the Financial Reporting Council Limited is the prescribed body for the purposes of section 14 of that Act by virtue of articles 2 and 3 of S.I. 2012/1439. Those articles are amended by S.I. 2013/472 and S.I. 2019/145.

(**f**) Section 456 is amended by S.I. 2013/1970. The Conduct Committee of the Financial Reporting Council Limited is authorised to exercise this function by an authorisation order made under section 457 of that Act, by article 4 of S.I. 2012/1439. The Conduct Committee is defined in article 1(3) of that instrument as "the body of that name established under the articles of association of the Financial Reporting Council Limited".

(**g**) 2006 c. 46. The Financial Reporting Council Limited is the prescribed issuing body for the purposes of section 464 of the Companies Act 2006 by designation under article 23 of S.I. 2012/1741.

(**h**) S.I. 2013/1672. This instrument is amended by S.I. 2016/649 and S.I. 2019/177.

(f) the carrying out of tasks to ensure that the provisions of the Audit Regulation are applied in accordance with the 2016 Regulations;

(g) the determination of technical standards and of other standards on professional ethics and internal quality control of statutory auditors and statutory audit work in accordance with the 2016 Regulations;

(h) the determination of the manner in which the standards mentioned in sub-paragraph (g) are to be applied in practice in accordance with the 2016 Regulations;

(i) the application of the standards mentioned in sub-paragraph (g) in accordance with the 2016 Regulations;

(j) the inspection, monitoring and investigation of audits that are carried out by statutory auditors and third country auditors in accordance with the 2016 Regulations;

(k) the sanctioning of statutory auditors and third country auditors and the publication of sanctions imposed in accordance with the 2016 Regulations;

(l) the delegation and reclamation of functions in accordance with regulation 3 of the 2016 Regulations;

(m) providing independent oversight of the regulation of the accountancy profession;

(n) providing an independent disciplinary scheme for matters relating to accountancy firms or members of the accountancy professional bodies which raise issues affecting the public interest;

(o) setting actuarial standards;

(p) providing independent oversight of the regulation of the actuarial profession;

(q) providing an independent disciplinary scheme for matters relating to the actuarial profession which raise issues affecting the public interest;

(r) monitoring and maintaining the UK Corporate Governance Code and its associated guidance; and

(s) monitoring and maintaining the UK Stewardship Code and its associated guidance.

(2) In this article—

(a) "the 2016 Regulations" means the Statutory Auditors and Third Country Auditors Regulations 2016(**a**);

(b) "Audit Regulation" means Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC2(**b**);

(c) "Part 6 rules" has the same meaning as in section 73A of the Financial Services and Markets Act 2000(**c**);

(d) "statutory auditor" has the same meaning as in section 1210 of the Companies Act 2006(**d**);

(e) "third country auditor" has the same meaning as in section 1261 of the Companies Act 2006(**e**).

Name
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy

Date

(**a**) S.I. 2016/649. This instrument is amended by S.I. 2017/516, 2017/1164 and 2019/177.
(**b**) EUR 2014/537, as amended by S.I. 2019/177.
(**c**) 2000 c. 8. Section 73A was inserted by S.I. 2005/381, amended by S.I. 2005/1433, substituted by the 2012 Act and amended by S.I. 2016/680 and 2019/1043.
(**d**) Section 1210 is amended by S.I. 2008/565, 2008/1950, 2013/3115, 2017/516, 2017/1164 and 2019/177.
(**e**) This definition was inserted by S.I. 2007/3494 and amended by S.I. 2016/649; there are other amendments to section 1261, but none are relevant to this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order imposes specific statutory duties and regulatory requirements on the Financial Reporting Council Limited ("the FRC"), a company registered in England and Wales with number 02486368.

Article 2 amends the Equality Act 2010 (c. 15) by adding the FRC to the list in Schedule 19 of public authorities which are subject to the public sector equality duty under section 149 of that Act.

Article 3 amends the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 (S.I. 2007/3544) which specifies the regulatory functions to which the duties in sections 21 and 22 of the Legislative and Regulatory Reform Act 2006 (c. 51) apply. Section 21 sets out the principles to which any person exercising a regulatory function must have regard. Section 22 provides for the issuing of a code of practice (the Regulators' Code) to which that person must have regard. The Regulators' Code is available at: https://www.gov.uk/government/publications/regulators-code, and a copy may be obtained from the Better Regulation Executive, Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET.

Article 3 adds all of the regulatory functions exercised by the FRC to the list in Part 1 of the Schedule to that Order that are not already regulatory functions to which the duties in sections 21 and 22 apply. The regulatory functions which have been delegated to other bodies under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649) are not included as functions to which the duties in sections 21 and 22 apply.

Article 4 of this Order designates the FRC as a public authority for the purposes of the Freedom of Information Act 2000 (c. 36) ("the FOI Act") in respect of certain of its functions of a public nature which relate to audit, accounting, actuaries and corporate governance. The obligations under the FOI Act apply to public authorities. For the purposes of the FOI Act, a "public authority" includes a body or office which is designated by an order under section 5 of the FOI Act. Section 7(5) provides that such an order must specify the functions of the public authority designated by the order with respect to which the designation is to have effect and limits the application of the FOI Act to information held by the authority relating to those specified functions.

The Corporate Governance Code is available at: https://www.frc.org.uk/directors/corporate-governance-and-stewardship/uk-corporate-governance-code, and the Stewardship Code is available at: https://www.frc.org.uk/investors/uk-stewardship-code. Copies of both of these documents may also be obtained from the Financial Reporting Council, 8th Floor, 125 London Wall, London EC2Y 5AS.

This Order refers to the delegation of some of the FRC's functions under the power to delegate under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016. The agreements by which these functions are delegated are available at https://www.frc.org.uk/auditors/professional-oversight/oversight-of-audit/delegation-agreements, and copies may also be obtained from the Financial Reporting Council, 8th Floor, 125 London Wall, London EC2Y 5AS.

An impact assessment has not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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