EXPLANATORY MEMORANDUM TO

THE STATUTORY AUDITORS (AMENDMENT OF COMPANIES ACT 2006 AND DELEGATION OF FUNCTIONS ETC) ORDER 2012

2012 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills (BIS) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

This instrument amends the Companies Act 2006 ("the Act"), primarily to give the Secretary of State new powers to secure that the relevant accountancy professional bodies discharge their responsibilities as regards the authorisation and supervision of "statutory auditors". In addition, it replaces the existing delegation of functions of the Secretary of State under the Act concerning auditors with a new delegation in favour of a different body – the Financial Reporting Council Limited. It also appoints that body to carry out other, related, functions, revoking the existing appointments.

3. Matters of special interest to the Joint Committee on Statutory Instruments

Since it amends primarily legislation, the relevant section of this instrument (Part 2) has been cleared by Parliamentary Counsel.

4. Legislative Context

4.1 Part 2 (articles 4 and 5) of the instrument re-implements obligations in Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EC and repealing Council Directive 84/253/EEC ("the 2006 Directive"). It also makes provision for matters which arise out of or relate to these obligations.

4.2 Article 32 of the 2006 Directive requires Member States to have an "effective system of public oversight" as regards statutory auditors and article 3.2 of the 2006 Directive has the effect that such an auditor's professional body (the Act uses the term "supervisory body") must be subject to this oversight too. Oversight includes being able to take "appropriate action" and article 4 of the instrument inserts new provisions at Part 42 of the Act to allow for additional types of "appropriate action" that may be taken against the professional bodies. Currently the type of

action is limited – revoking the body's recognition as a body able to authorise and supervise auditors and asking the court for a "compliance order" (essentially an order that the body comply with its responsibilities as regards the supervision of its auditor members). The new provisions will allow the professional body to be fined and given directions (directions to do or refrain from doing specified things).

4.3 The Act provides for statutory audit work to be monitored by means of inspections – see Article 29 of the 2006 Directive (quality assurance systems). A more rigorous system as regards monitoring audits in respect of "public interest entities" (broadly speaking, listed companies) applies – inspections of these entities are carried out by an independent body and not by the auditor's professional body. The amendments of the Act made by article 5(3) and (4) of this instrument will allow the independent inspecting body to determine sanctions against auditors if it discovers breaches of relevant rules of the auditor's professional body.

4.4 In transposing the 2006 Directive, the Act confers numerous functions on the Secretary of State (including taking "appropriate action"), but the Act also allows these functions to be delegated to a third party. Currently these functions are exercised by the Professional Oversight Board – a so-called "operating body" (or division) of the Financial Reporting Council Limited ("the Council"). The Council is being reformed and restructured and Part 3 of the Order revokes this existing delegation and delegates the relevant functions to the Council.

4.5 A revised Transposition Note in respect of the 2006 Directive is attached.

4.6 A negative procedure instrument addressing other aspects of the Council's reform and restructuring will be made after this instrument is laid. It is intended that both instruments will come into effect at the same time

5. Territorial Extent and Application

This instrument extends and applies to all of the United Kingdom.

6. European Convention on Human Rights

The Minister for Employment Relations, Consumer and Postal Affairs, Norman Lamb MP has made the following statement regarding Human Rights:

In my view the provisions of the Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 are compatible with the Convention rights.

7. Policy background

7.1 In October 2011 the Government and the Council launched a joint consultation outlining proposals to reform the work of the Council to improve its efficiency and effectiveness; rationalise and minimise the regulatory burdens on market participants; and reinforce the Council's independence from those it regulates. Originally, the planned implementation date was April 2012, but July 2012 is now proposed. A number of the changes that have emerged from the consultation require amendments to legislation. The policy gives rise to two types of legislative change: firstly, amendments to the Act in connection with the supervision of the professional bodies etc and, secondly, replacing existing appointments of, and delegations to, the Council's current operating bodies with (in most cases) appointments of, and delegations to, the Council itself.

7.2 The amendments to Part 42 of the Act (see paragraph 4.2 above) will ensure that the Council has more proportionate powers in relation to the sanctioning of the professional bodies. Following the existing structure of Part 42 these powers are expressed on the face of the Act to be exercised by the Secretary of State. In fact, however, it will be the Council exercising them because of the relevant delegation under Part 3 of the instrument. Note that in practice it is also the Council which carries out the independent inspections of audits in respect of "public interest entities" (see paragraph 4.3 above). It will therefore be the Council which is determining sanctions against auditors where, pursuant to an investigation, it discovers breaches of the relevant rules of the auditor's professional body.

7.3 Pursuant to paragraphs 16(1) and 24(1) of Schedule 10 to the Act, the professional bodies are required to facilitate that misconduct allegations in respect of their auditor members arising in significant audits are investigated by an independent body. In practice this independent body is again the Council. The legislation is worded so as to preclude disciplinary measures being imposed in such cases unless a formal oral hearing is first of all held. The consultation recognised that the holding of a hearing was not always necessary – to make it a requirement in every case was burdensome. A further amendment to the Act (article 5(5) of the instrument) will allow the professional bodies to enter into misconduct allegation arrangements which permit an auditor to waive this hearing requirement.

7.4 A main feature of the reforms is the restructuring of the Council to create a more streamlined organisation. The Council's existing seven operating bodies will be dissolved and two new Committees of the Council created. As a consequence, many of the functions now exercised by an operating body will need to be transferred to the Council. Parts 3, 4 and 5 of the instrument achieve this.

8. Consultation outcome

The consultation on FRC reform was launched in October 2011 and closed on 10 January 2012. A total of 75 responses were received. The main concerns raised were to do with ensuring the quality of accounting standards (granted that the relevant operating body, the Accounting Standards Board, is being dissolved) and the continued international influence

of these standards; maintaining appropriate governance arrangements; maintaining appropriate procedures and sanctions in relation to conduct; and defining the respective roles of the Council and the professional bodies. In their joint response to the consultation (www.bis.gov.uk/Consultations), the Government and the Council have explained that the Council will maintain a strong contribution to EU and international policy-making; that the Council will enhance the role of the new Committees to address concerns as regards the setting of accounting standards; and that the Council will be publishing additional detail about the operation of the new sanctioning regime.

9. Guidance

None

10. Impact

10.1 Waiving hearings in disciplinary cases will have a positive financial impact upon the accountancy sector. Otherwise, there is no impact on business, charities or voluntary bodies.

10.2 The changes impact upon the Council and the professional accountancy bodies. The public sector is affected in so far as the Council and such bodies are carrying out public functions. There is otherwise no public sector impact. Note that since most functions and powers will now be exercised by the Council itself and not its operating bodies, the Council will be directly accountable to Parliament. It will also be subject to freedom of information.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside this Explanatory Memorandum on www.legislation.gov.uk

11. Regulating small business

This is not relevant.

12. Monitoring & review

The Council will monitor the implementation of the changes, particularly to see if they contribute to the efficiency of the capital markets. Additionally, the Council will conduct an in-depth review in 2015.

13. Contact

Angela Rabess at the Department for Business, Innovation and Skills (tel: 020 7215 1661 or email: angela.rabess@bis.gsi.gov.uk) can answer any queries regarding the instrument.

TRANSPOSITION NOTE & TABLE

DIRECTIVE 2006/43/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 17 MAY 2006 ON STATUTORY AUDITS OF ANNUAL ACCOUNTS AND CONSOLIDATED ACCOUNTS, AMENDING COUNCIL DIRECTIVES 78/660/EEC AND 83/349/EEC AND REPEALING COUNCIL DIRECTIVE 84/253/EEC

1. This note describes the implementation in the UK of Directive 2006/43 EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L157, 9.6.2006, p.87).

2. UK law already regulates auditors and the audit process in Parts 16 and 42 of the Companies Act 2006, which apply to the whole of the UK and were brought into force on 6th April 2008. They replaced earlier provisions in the Companies Act 1985 and the Companies Act 1989 in Great Britain, and equivalent legislation in Northern Ireland.

3. The UK implementation of the Directive consists of provisions in the following instruments, which are the responsibility of the Secretary of State for Business, Innovation and Skills, except where indicated:

- Parts 16 and 42 of the Companies Act 2006;
- Statutory Auditors and Third Country Auditors Regulations 2007 (including amendments to the Companies Act 2006) ("the 2007 regulations");
- Statutory Auditors and Third Country Auditors (Amendment) Regulations 2008 (correcting minor errors in the Statutory Auditors and Third Country Auditors Regulations 2007);
- Statutory Auditors and Third Country Auditors (Amendment) (No. 2) Regulations 2008;
- Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008;
- Companies Act 2006 (Transfer of Audit Working Papers to Third Countries) Regulations 2010 (amending Part 42 of the Companies Act 2006) ("the 2010 regulations");
- Statutory Auditors and Third Country Auditors (Amendment) Regulations 2011 (including amendments to the Companies Act 2006) ("the 2011 regulations");
- Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) (Amendment) Regulations 2011;
- Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 ("the 2012 order");
- Partnerships (Accounts) Regulations 2008;
- Bank Accounts Directive (Miscellaneous Banks) Regulations 2008;

- Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008;
- Companies Act 2006 (Consequential Amendments etc) Order 2008;
- Building Societies Act 1986 (*HM Treasury responsible*);
- Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008 (*HM Treasury responsible*);
- Friendly Societies Act 1992 (*HM Treasury responsible*);
- Friendly Societies Act 1992 (Accounts, Audit and EEA State Amendments) Order 2008 (*HM Treasury responsible*);
- Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2008 (*HM Treasury responsible*);
- Statutory Auditors (Transparency) Instrument 2008 (*Professional Oversight Board responsible*);
- Statutory Auditors (Registration) Instrument 2008 (*Professional Oversight Board responsible*);
- Statutory Auditors (Examinations) Instrument 2008 (*Professional Oversight Board responsible*);
- Disclosure Rules and Transparency Rules Sourcebook (Corporate Governance Rules) Instrument 2008 *(Financial Services Authority responsible*).

4. The table below describes the main substantive provisions implementing the Directive. Unless otherwise indicated, references in the table to a section or schedule are to provisions of the Companies Act 2006 and references to a regulation are to a provision of the Statutory Auditors and Third Country Auditors Regulations 2007.

Directive 2006/43/EC on statutory audits: Transposition Measures		
Article	**Objective**	**Implementation**
1	Describes the Directive's subject matter.	No implementation required.
2	Sets out definitions of terms used in Directive.	Directive definitions reflected in substantive implementing provisions.
APPROVAL OF AUDITORS		
3.1	Statutory audits may only be carried out by approved statutory auditors.	Section 1212(1).
3.2	Competent authorities to be designated for approving statutory auditors.	Section 1217 and Part 1 of Schedule 10.

3.3	Statutory auditors who are individuals to be approved only if articles 4 and 6-10 are met.	See implementation of articles 4 and 6-10 below.
3.4	Statutory auditors which are firms to be approved only if individuals conducting audits comply with articles 4 and 6-12, and if firm is controlled and managed by qualified individuals.	Paragraphs 6 and 7 of Schedule 10. See also implementation of articles 4 and 6-12 below.
4	Statutory auditors must be of good repute.	Paragraph 8 of Schedule 10.
5.1	Approval to be withdrawn if good repute compromised.	Paragraphs 8 and 14 of Schedule 10.
5.2	Approval to be withdrawn if firm not controlled and managed by qualified individuals.	Paragraphs 6, 7 and 14 of Schedule 10.
5.3	Withdrawal of approval to be notified to relevant authorities of other Member States.	Sections 1223A and 1253C (as inserted by regulations 7 and 14).
AUDITORS' QUALIFICATIONS		
6	Qualifications to include theoretical instruction, practical training and examination of professional competence.	Sections 1219 and 1220, and paragraphs 6 to 11 of Schedule 11.
7	Examination of professional competence must guarantee theoretical knowledge of subjects relevant to statutory audit, and the ability to apply that knowledge in practice.	Paragraph 8 of Schedule 11 and The Statutory Auditors (Examinations) Instrument 2008.
8.1 and 8.2	List of subjects to be included in test of theoretical knowledge.	Paragraph 8 of Schedule 11 and The Statutory Auditors (Examinations) Instrument 2008.
8.3	Commission may adopt further measures.	No implementation required at this stage.
9.1	Person holding a degree in a subject may be exempted from further test of theoretical knowledge under Article 7 or 8 in that subject.	Paragraph 8(2) of Schedule 11.
9.2	Person holding a degree in a subject may be exempted from further test of ability to apply knowledge under Article 7 if also has a diploma attesting to practical training.	Paragraph 8(3) of Schedule 11.
10.1	Practical training of minimum 3 years, at least 2 years of which with a statutory auditor.	Paragraph 9 of Schedule 11.
10.2	Training providers must provide adequate guarantees of their ability to provide training.	Paragraph 9(3) of Schedule 11.

11	Member State may allow a person who does not meet the Article 6 requirements instead to qualify through: (a) 15 years' professional experience and passing the exam under Article 7; or	Not implemented.
	(b) 7 years' professional experience, passing the exam under Article 7, and completing the practical training under Article 10.	Paragraph 7 of Schedule 11.
12.1	Theoretical instruction of more than 1 year may count towards up to 4 years of the professional experience required by Article 11.	Paragraph 10(1) of Schedule 11.
12.2	Combination of professional experience and practical training must not be shorter than combination of theoretical instruction with practical training.	Paragraph 10(2) of Schedule 11.
13	Statutory auditors required to take part in continuing education.	Paragraphs 11 and 14 of Schedule 10.
14	Member State authorities must approve auditors from other Member States who pass an aptitude test.	Paragraph 6 of Schedule 10 (as amended by regulation 17).
REGISTRATION OF AUDITORS		
15.1	Auditors to be entered into public register in accordance with Articles 16 and 17. Requirements of Articles 15 and 16 may be disapplied if threat to a person's security.	See implementation of Articles 16 and 17 below. The Statutory Auditors (Registration) Instrument 2008.
15.2	Each auditor to be identified by registration number; register to be in electronic form and electronically accessible.	The Statutory Auditors (Registration) Instrument 2008.
15.3	Register to contain name and address of auditors' supervisory authorities.	The Statutory Auditors (Registration) Instrument 2008.
15.4	Register to be fully operational by 29 June 2009.	The Statutory Auditors (Registration) Instrument 2008.
16.1	Register to contain individual statutory auditor's name and address, details of any firm he is employed by, and details of any registration in other Member States.	The Statutory Auditors (Registration) Instrument 2008.
16.2	Third country auditors to be marked in register as such.	Regulation 32(2)(c).

17.1	Register to contain audit firm's name and address, legal form, names and addresses of owners and managers, and details of any registration in other Member States.	The Statutory Auditors (Registration) Instrument 2008.
17.2	Third country audit firms to be marked in register as such.	Regulation 32(3)(d).
18	Statutory auditors under a duty to update register.	The Statutory Auditors (Registration) Instrument 2008.
19	Information provided for register under Articles 16, 17 and 18 must be signed by statutory auditor.	The Statutory Auditors (Registration) Instrument 2008.
20.1	Register to be in a language permitted by Member State.	The Statutory Auditors (Registration) Instrument 2008.
20.2	Member State may allow information on register in a second Community language.	Not implemented.
PROFESSIONAL ETHICS		
21.1	Statutory auditors subject to professional ethics principles, including integrity, objectivity, professional competence and due care.	Paragraphs 9 and 21 of Schedule 10 (as amended by regulation 19).
21.2	Commission may adopt further measures.	No implementation required at this stage.
22.1	Statutory auditor to be independent of audited person.	Sections 1214 and 1215, and paragraphs 9 and 21 of Schedule 10 (as amended by regulation 19).
22.2	Audit not to be carried out if significant threats to statutory auditor's independence; safeguards to be applied to mitigate threats. Audit of public interest entity not to be carried out in case of self-review or self-interest,	Paragraphs 9 and 21 of Schedule 10 (as amended by regulation 19). Paragraphs 9 and 21 of Schedule 10 (as amended by regulation 19).
22.3	Statutory auditors to record significant threats to independence and safeguards applied.	Paragraphs 9 and 21 of Schedule 10 (as amended by regulation 19).
22.4	Commission may adopt further measures.	No implementation required at this stage.
23.1	Audit documents to be subject to rules on confidentiality.	Paragraph 9(3)(b) of Schedule 10 (as amended by regulation 19).
23.2	Such confidentiality rules not to impede enforcement of Directive.	Paragraph 9(3)(b) of Schedule 10 (as amended by regulation 19).

23.3	Outgoing statutory auditor to provide incoming statutory auditor with all relevant information.	Paragraph 9(3)(c) of Schedule 10 (as amended by regulation 19).
23.4	Obligations of Article 23.1 and 2 extend to former statutory auditors.	Paragraph 9(4) of Schedule 10 (as amended by regulation 19).
24	Owners and managers of audit firms not to compromise independence and objectivity of individual auditors in conduct of audits.	Paragraph 9(3)(a) of Schedule 10 (as amended by regulation 19).
25	Audit fees not to be influenced by provision of additional services or based on a contingency.	Paragraphs 9(1)(e) and 21 of Schedule 10 (as amended by regulation 19).
AUDIT STANDARDS AND REPORTING		
26.1	Statutory audits to be conducted in accordance with international auditing standards adopted by Commission; but national standards may be applied if no such standards adopted.	No implementation required at this stage.
26.2	Commission may adopt international auditing standards under certain conditions.	No implementation required.
26.3	Member States may derogate from adopted international auditing standards under certain conditions.	No implementation required at this stage.
26.4	Member States may impose additional requirements until 29 June 2010.	No implementation required at this stage.
27(a)	For statutory audits of group accounts group auditor bears full responsibility.	- sections 495 and 471; - section 78(4)(c) of Building Societies Act 1986; - section 73(5)(c) of Friendly Societies Act 1992.
27(b)	Group auditor reviews work performed by other auditors, and documents review.	Paragraphs 10A(1) and 22 of Schedule 10 (as inserted by regulation 20).
27(c)	If work is carried out by an auditor in a country with which there is no Article 47 arrangement, group auditor is to retain copies of that auditor's documentation and make them available to authorities.	Paragraph 10A(3) to (6) of Schedule 10 (as inserted by regulation 20 and amended by regulation 5(2) of the 2011 regulations).

28.1	Audit report of audit firm to be signed by individual auditor carrying out the work, unless threat to personal security.	- sections 503 to 506; - regulation 10 of the Partnerships (Accounts) Regulations 2008; - regulation 9 of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008; - regulation 8 of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008; - sections 78A to 78D of Building Societies Act 1986 (as inserted by article 5 of Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008); - sections 74 to 74C of Friendly Societies Act 1992 (as inserted by article 5 of Friendly Societies Act 1992 (Accounts, Audit and EEA State Amendments) Order 2008); -The Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2008.
28.2	If no international standard adopted for audit reports under Article 26.1, Commission may adopt a common EU standard.	No implementation required at this stage.
QUALITY ASSURANCE REVIEWS		
29.1	Statutory auditors must be subject to quality assurance reviews meeting following conditions: (a) independent of the auditors;	Paragraph 12(1A) of Schedule 10 (as amended by regulation 22).
	(b) funding secure and free from influence;	Paragraph 12(1) of Schedule 10 (as amended by regulation 22).
	(c) adequate resources;	Paragraph 12(1) of Schedule 10 (as amended by regulation 22).
	(d) carried out by persons with appropriate education and experience;	Paragraph 13(4) of Schedule 10 (as amended by regulation 23).
	(e) selection of reviewers is objective;	Paragraph 13(4) of Schedule 10 (as amended by regulation 23).
	(f) review to test audit files, check compliance with audit standards, independence requirements, resources allocated, audit fees, and internal quality control;	Paragraph 13(5) and (6) of Schedule 10 (as amended by regulation 23).

	(g) review to be subject of a report;	Paragraph 13(8) of Schedule 10 (as amended by regulation 23).
	(h) take place at least every 6 years;	Paragraph 13(3) of Schedule 10 (as amended by regulation 23).
	(i) overall results of reviews to be published annually;	Section 1251A (as inserted by regulation 11).
	(j) review recommendations to be followed up, or disciplinary action taken.	Paragraph 12 of Schedule 10 (as amended by regulation 22) paragraph 13(1)(b) of Schedule 10 (as inserted by article 5(3) of the 2012 order), paragraph 14 of Schedule 10 and paragraph 23(1) of Schedule 10 (as inserted by article 5(4) of the 2012 order).
29.2	Commission may adopt measures for the uniform application of (a), (b) and (e) to (j) above.	No implementation required at this stage.
INVESTIGATIONS AND OVERSIGHT		
30.1	Member States to have effective systems of investigations and penalties.	Paragraph 12 of Schedule 10 (as amended by regulation 22), paragraph 13(1)(b) of Schedule 10 (as inserted by article 5(3) of the 2012 order, paragraph 14 of Schedule 10,paragraph 16 of Schedule 10, paragraph 23(1) of Schedule 10 (as inserted by article 5(4) of the 2012 order) and paragraph 24 of Schedule 10 (as amended by regulation 5(5) of the 2011 regulations and article 5(5) of the 2012 order).
30.2	Penalties to be effective, proportionate and dissuasive.	Paragraph 12 of Schedule 10 (as amended by regulation 22) and paragraph 14 of Schedule 10.
30.3	Penalties to be disclosed to the public and include the possibility of withdrawal of approval.	Paragraph 12(3) of Schedule 10 (as amended by regulation 22).
31	Commission to present a report on auditors' liability.	No implementation required.
32.1	Member States to have effective oversight of statutory auditors in accordance with paragraphs 2 to 7.	Sections 1209 to 1264 and Schedules 10 to 14.
32.2	All statutory auditors to be subject to public oversight.	Sections 1212(1) and 1217, paragraphs 1 to 4 of Schedule 10, and article 7 of the 2012 order..
32.3	System of public oversight to be governed by independent non-practitioners.	Article 7 of the 2012 order..

32.4	System of public oversight to oversee approval and registration of statutory auditors, adoption of audit standards, continuing education, quality assurance, investigations and discipline.	Sections 1209 to 1264 and Schedules 10 to 14, and article 7 of the 2012 order.
32.5	System of public oversight to include conducting investigations in relation to statutory auditors…	Paragraph 16 Schedule 10 and paragraph 24 of Schedule 10 (as amended by regulation 5(5) of the 2011 regulations and article 5(5) of the 2012 order).
	… and taking appropriate action.	Sections 1224, 1225 to 1225G (as inserted by article 4 of the 2012 order) and article 7 of the 2012 order.
32.6	System of public oversight to be transparent and publish annual work programmes and activity reports.	Paragraph 10 of Schedule 13 and article 10 of the 2012 order.
32.7	System of public oversight to be adequately funded, and funding free from undue influence.	Article 7 of the 2012 order.
33	Member States to ensure cooperation of national public oversight systems, and to nominate one entity as responsible for that cooperation.	Sections 1253A to 1253C (as inserted by regulation 16), and article 7 of the 2012 order.
34.1	Member States to respect the principle of home-country regulation.	Sections 1210 and 1212.
34.2	For audits of group accounts, Member States may not impose additional requirements on audits of subsidiaries established in other Member States.	Sections 1210 and 1212, and paragraphs 6 to 11 of Schedule 10 (as amended by regulations 17 to 21).
34.3	For companies whose securities are traded on the market of a second Member State, the second Member State may not impose additional requirements on their audits.	Sections 1210 and 1212, and paragraphs 6 to 11 of Schedule 10 (as amended by regulations 17 to 21).
35.1	Member States to designate competent authorities for Directive's tasks.	Sections 1217 and 1220, Schedules 10 and 11,and articles 7 to 16 of the 2012 order..
35.2	Competent authorities to avoid conflicts of interest.	Sections 1217 and 1220, Schedules 10 and 11,and articles 7 to 16 of the 2012 order..
36.1	Competent authorities of Member States to cooperate with one another, render assistance and exchange information.	Sections 1253A to 1253C (as inserted by regulation 14).

36.2	Obligations of professional secrecy to apply to employees of competent authorities.	Sections 1224A (as amended by regulation 3 of the 2011 regulations) and 1224B and Schedule 11A (as inserted by regulation 8(2) and the Schedule to the 2007 Regulations and as amended by regulation 6 of the 2011 regulations).
36.3	Article 36.2 shall not prevent competent authorities exchanging information.	Section 1224A(4) and (5) and Schedule 11A (as inserted by regulation 8(2) and the Schedule to the 2007 Regulations and as amended by regulation 6 of the 2011 regulations).
36.4	Competent authorities to provide information requested by competent authorities of other Member States. They may refuse in certain circumstances.	Section 1253B (as inserted by regulation 14).
36.5	Competent authorities to notify competent authorities of other Member States if aware of unlawful conduct in their territories.	Section 1253C (as inserted by regulation 14).
36.6	Competent authorities to conduct investigations requested by competent authorities of other Member States. They may refuse in certain circumstances.	Section 1253B (as inserted by regulation 14).
36.7	Commission may adopt further measures to facilitate cooperation between competent authorities.	No implementation required at this stage.
APPOINTMENT AND DISMISSAL OF AUDITORS		

37.1	Statutory auditor to be appointed by members of audited entity.	- sections 485 and 489; - regulation 8 of the Partnerships (Accounts) Regulations 2008; - regulation 7 of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008; - regulation 6 of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008; - section 77 of, and Schedule 11 to, the Building Societies Act 1986 (as amended by paragraphs 13 and 14 of Schedule 1 to the Companies Act 2006 (Consequential Amendments etc) Order 2008); - section 72 of, and Schedule 14 to, the Friendly Societies Act 1992 (as amended by paragraphs 15, 16 and 187 of Schedule 1 to the Companies Act 2006 (Consequential Amendments etc) Order 2008); - The Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2008.
37.2	Alternative systems of appointment allowed if designed to ensure independence of auditor from managers of audited entity.	Sections 486 and 490;
38.1	Statutory auditors not to be dismissed on improper grounds.	- section 994 (as amended by regulation 42); - regulation 11 of the Partnerships (Accounts) Regulations 2008; - regulation 10 of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008; - regulation 9 of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008; - paragraph 6A of Schedule 11 to the Building Societies Act 1986 (as inserted by article 6 of Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008); - paragraph 10A of Schedule 14 to the Friendly Societies Act 1992 (as inserted by article 6 of Friendly Societies Act 1992 (Accounts, Audit and EEA State Amendments) Order 2008); - The Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2008.

38.2	Statutory auditor and audited entity to inform competent authority of dismissal or resignation, including an explanation of the reasons.	- sections 522 and 523; - regulations 12 and 13 of the Partnerships (Accounts) Regulations 2008; - regulations 11 and 12 of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008; - regulations 10 and 11 of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008; - paragraphs 8A to 8C of Schedule 11 to the Building Societies Act 1986 (as inserted by article 6 of Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008); - paragraphs 15A to 15C of Schedule 14 to the Friendly Societies Act 1992 (as inserted by article 6 of Friendly Societies Act 1992 (Accounts, Audit and EEA State Amendments) Order 2008); - The Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2008.
STATUTORY AUDITS OF PUBLIC INTEREST ENTITIES		
39	Member States may exempt non-traded public interest entities from the requirements of Articles 40 to 43.	Implemented in provisions relating to Articles 40 to 43 – see below.
40.1	Statutory auditors of public interest entities to publish transparency reports containing certain information on their websites.	The Statutory Auditors (Transparency) Instrument 2008.
40.2	Transparency report to be signed by the statutory auditor.	The Statutory Auditors (Transparency) Instrument 2008.
41.1	Public interest entities to have audit committees, whose membership includes one independent person competent in accounting or auditing.	No implementation required – see Article 41.5 below.
41.2	Functions of an audit committee to include monitoring financial reporting process, the audit, and the independence of the statutory auditor.	No implementation required – see Article 41.5 below.
41.3	Proposal of public interest entity's managers for appointment of statutory auditor to be based on audit committee's recommendation.	No implementation required – see Article 41.5 below.
41.4	Statutory auditor to report to audit committee on key matters arising from audit.	Paragraph 10B(2)(e) and (f) of Schedule 10 (as inserted by regulation 21).

41.5	Member States may exempt public interest entities from the above requirements if they have a body performing equivalent functions.	Disclosure Rules and Transparency Rules Sourcebook (Corporate Governance Rules) Instrument 2008.
41.6	Member States may exempt from the above requirements: (a) a subsidiary of a public interest entity; (b) a collective investment undertaking; (c) an issuer of asset-backed securities; (d) a credit institution which is not traded or issued debt securities of more than 100 million euros.	Disclosure Rules and Transparency Rules Sourcebook (Corporate Governance Rules) Instrument 2008.
42.1	Statutory auditors of public interest entities to: (a) confirm annually in writing to audit committee their independence;	Paragraph 10B(2)(a) of Schedule 10 (as inserted by regulation 21).
	(b) disclose annually to audit committee any additional non-audit services provided to entity;	Paragraph 10B(2)(b) of Schedule 10 (as inserted by regulation 21).
	(c) discuss with audit committee the threats to their independence and the safeguards applied.	Paragraph 10B(2)(c) and (d) of Schedule 10 (as inserted by regulation 21).
42.2	In audit firms, key audit partners responsible for audit to rotate after 7 years.	Paragraph 10C(1)(a) and (b) of Schedule 10 (as inserted by regulation 21).
42.3	Key audit partners not to take up key management posts in audited entity for two years following audit.	Paragraph 10C(3) and (4) of Schedule 10 (as inserted by regulation 21).
43	Quality assurance review under Article 29 must be every 3 years for statutory auditors of public interest entities.	Paragraph 23(1A) of Schedule 10 (as inserted by regulation 28).
AUDITORS FROM THIRD COUNTRIES		
44.1	Member States may approve third country auditors as statutory auditors, subject to reciprocity, if they meet requirements equivalent to Articles 4 and 6 to 13.	Section 1221(3) and (4).
44.2	The requirements of Article 14 also apply to approval of a third country auditor.	Section 1221(1A) and (7A) (as amended by regulation 6).

45.1	Competent authorities of Member State must register in accordance with Articles 15 to 17 third country auditor who provide an audit report of a company whose securities are traded on a regulated market in that Member State.	Regulations 34 to 37 (as amended by regulation 2(5) and (6) of the Statutory Auditors and Third Country Auditors (Amendment) Regulations 2008, regulation 2(3) of the Statutory Auditors and Third Country Auditors (Amendment) (No. 2) Regulations 2008 and regulation 7(3) and (4) of the 2011 Regulations).
45.2	Articles 18 and 19 also apply to such registration.	Regulation 35(5) (as amended by regulation 2(4) of the Statutory Auditors and Third Country Auditors (Amendment) (No. 2) Regulations 2008) and Regulation 39 (as substituted by regulation 7(5) of the 2011 Regulations).
45.3	Member States to subject registered third country auditors to their systems of oversight, quality assurance, and investigation and penalties.	Sections 1242 (as amended by regulation 32 and by regulation 4 of the 2011 Regulations) to 1245 and Schedule 12 (as amended by regulation 33).
45.4	Audit reports to have no legal effect if the third country auditor is not registered.	Disclosure Rules and Transparency Rules Sourcebook (Corporate Governance Rules) Instrument 2008.
45.5	Third country auditors to be registered only if: (a) meet requirements equivalent to Article 3(3);	 Regulations 35(3)(c) and (4) and 36(1)(c);
	(b) majority of firm's managers meet requirements of Articles 4 to 10;	Regulations 35(3)(c) and 36(1)(b)(i);
	(c) individual auditors meet requirements of Articles 4 to 10;	Regulations 35(3)(c) and 36(1)(b)(ii);
	(d) audits conducted in accordance with standards and requirements equivalent to Articles 22, 24, 25 and 26;	Regulations 35(3)(c) and 36(1)(d) and (e);
	(e) publish a transparency report equivalent to Article 40 requirements.	Regulations 35(3)(c) and 36(1)(f).
45.6	Equivalence referred to in Article 45.5(d) to be assessed by Commission. Member States may assess if no Commission decision.	Regulation 36(1)(d) and (e).
46.1	Member States may disapply Article 45.1 – 3 on basis of reciprocity if a third country auditor is subject in home country to quality assurance, investigations and oversight equivalent to Articles 29, 30 and 32.	Sections 1239(7) (as amended by regulation 30(5)) and 1242(4) (as amended by regulation 2 of the Statutory Auditors and Third Country Auditors (Amendment) Regulations 2011).

46.2	Equivalence referred to in Article 46.1 to be assessed by Commission. Member States may assess if no Commission decision.	Sections 1239(7) (as amended by regulation 30(5)) and 1242(4) (as amended by regulation 2 of the Statutory Auditors and Third Country Auditors (Amendment) Regulations 2011).
46.3	Member States to communicate to Commission their assessments of equivalence and any cooperative arrangements with third country authorities.	No implementation required in legislation.
TRANSFER OF PAPERS TO THIRD COUNTRY AUTHORITIES		
47.1	Member States may allow transfer of audit papers to a third country authority if:	- Section 1253D(1) (as inserted by regulation 2 of the 2010 regulations); - Section 1253DA (as inserted by regulation 2 of the 2010 regulations) (transfer by Secretary of State); - Section 1253DB (as inserted by regulation 2 of the 2010 regulations) (transfer by statutory auditor)
	(a) papers relate to a company traded in that country or a group based in that country;	- Section 1253DA(3) (as inserted by regulation 2 of the 2010 regulations) (transfer by the Secretary of State) - Section 1253DB(4) (as inserted by regulation 2 of the 2010 regulations) (transfer by statutory auditor with the approval of the Secretary of State).

	(b) transfer is via Member State authority and at their request;	- Section 1253DA(2) (as inserted by regulation 2 of the 2010 regulations) (transfer by the Secretary of State) - Section 1253DB(3) (as inserted by regulation 2 of the 2010 regulations) (transfer by statutory auditor with the approval of the Secretary of State).
	(c) third country authority meets requirements declared as adequate under Article 47.3;	Section 1253D(2) (as inserted by regulation 2 of the 2010 regulations)
	(d) there are working arrangements based on reciprocity between the authorities;	- Section 1253DA(4) (as inserted by regulation 2 of the 2010 regulations) (transfer by the Secretary of State) - Section 1253DB(5) (as inserted by regulation 2 of the 2010 regulations) (transfer by statutory auditor) - Section 1253E (as substituted by regulation 3 of the 2010 regulations)
	(e) transfer is in accordance with Data Protection Directive.	Section 1253D(3) (as inserted by regulation 2 of the 2010 regulations).
47.2	Working arrangements referred to in Article 47.1(d) must ensure that: (a) requests for audit papers are justified;	Section 1253E(2) (as substituted by regulation 3 of the 2010 regulations)
	(b) employees of authority are subject to professional secrecy obligations;	Section 1253E(5) (as substituted by regulation 3 of the 2010 regulations)
	(c) authorities only use papers for oversight and other functions equivalent to Articles 29, 30 and 32;	Section 1253E(3) and (4) (as substituted by regulation 3 of the 2010 regulations)
	(d) a request for papers may be refused if adverse effect on security or public order, or if judicial proceedings initiated in respect of same matter.	Section 1253E(6) and (7) (as inserted by regulation 3 of the 2010 regulations)
47.3	Adequacy referred to in Article 47.1(c) to be decided by Commission.	Section 1253D(2) (as inserted by regulation 2 of the 2010 regulations)
47.4	As a derogation from Article 47.1, Member States may allow direct transfer of papers from auditors to third country authorities if: (a) authorities have initiated investigations;	Section 1253DC (as inserted by regulation 2 of the 2010 regulations) Paragraphs 16A(1) and 16AB(1) and (2) of Schedule 10 (as inserted by regulation 5 of the 2010 regulations).

	(b) transfer does not conflict with auditor's obligations to Member State authority;	No implementation required, as no such conflicting obligations exist.
	(c) reciprocal working arrangements between authorities for direct access;	Paragraph 16AB(5) of Schedule 10 (as inserted by regulation 5 of the 2010 regulations).
	(d) Member State authority informed of request in advance;	Paragraph 16AB(4) of Schedule 10 (as inserted by regulation 5 of the 2010 regulations).
	(e) working arrangements comply with Article 47.2.	Paragraph 16AB(5) of Schedule 10 (as inserted by regulation 5 of the 2010 regulations).
47.5	Commission may specify the cases to which Article 47.4 applies.	No implementation required at this stage.
47.6	Member States to communicate to Commission working arrangements referred to above.	No implementation required in legislation.
COMMITTEE PROCEDURE		

48	Committee procedure (comitology) for further measures to be made by Commission under Directive.	No implementation required.
DISCLOSURE OF AUDITOR REMUNERATION		

49.1	(a) Article 43.1 of Directive 78/660/EEC amended so that notes on company accounts include auditor's fees for audit and other services.	- Regulation 5 of the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008 as amended by regulations 2, 3 and 4 of the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) (Amendment) Regulations 2011; - regulation 4(2) of the Partnerships (Accounts) Regulations 2008; - regulation 4(2) of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008; - regulation 3(5) of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008; - Schedule 10C to the Building Societies Act 1986 (as inserted by Schedule 1 to the Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008); - Schedule 13F to the Friendly Societies Act 1992 (as inserted by Schedule 1 to the Friendly Societies Act 1992 (Accounts, Audit and EEA State Amendments) Order 2008); - The Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2008.
	(b) Article 44.1 of Directive 78/660/EEC amended so that Member States may allow small companies not to produce notes on such fees.	- regulation 4 of the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008; - regulation 4(2) of the Partnerships (Accounts) Regulations 2008; - regulation 4(2) of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008;
	(c) Article 45.2 of Directive 78/660/EEC amended so that Member States may allow medium-size companies not to disclose such fees if disclosed to audit regulator on request.	- regulation 4(4) of the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008; - regulation 4(2) of the Partnerships (Accounts) Regulations 2008; - regulation 4(2) of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008;

49.2	Article 34 of Directive 83/349/EEC amended so that notes on group accounts include auditor's fees for audit and other services.	- regulation 6 of the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008; - regulation 4(2) of the Partnerships (Accounts) Regulations 2008; - regulation 4(2) of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008; - regulation 3(5) of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008; - Schedule 10C to the Building Societies Act 1986 (as inserted by Schedule 1 to the Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008); - Schedule 13F to the Friendly Societies Act 1992 (as inserted by Schedule 1 to the Friendly Societies Act 1992 (Accounts, Audit and EEA State Amendments) Order 2008); - The Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2008.
FINAL PROVISIONS		
50	Directive 84/253/EEC (previous directive on audit) is repealed.	No implementation required.
51	Statutory auditor approved under Directive 84/253/EEC before this Directive is transposed to be considered as approved in accordance with this Directive.	Section 1219(b) and (c).
52	Member States may impose more stringent requirement, unless otherwise provided for in Directive.	No specific implementation required.
53	Member States must transpose Directive by 29 June 2008, and communicate main provisions of national law to Commission.	No specific implementation required.
54	Directive enters into force 20 days after publication.	No implementation required.
55	Directive addressed to the Member States.	No specific implementation required.

Department for Business, Innovation and Skills
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