



COMMERCE AND EMPLOYMENT

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

AUDITOR OVERSIGHT IN GUERNSEY

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Background to the Statutory Audit Directive

- Guernsey is a “third country” for the purposes of the directive (as are Jersey and the Isle of Man)
- Early commitment between the Crown Dependencies to a common approach based on existing relationship with the British Institutes and modelled on the UK regime,
- Implementation of an EU compliant regime to facilitate continued use of Guernsey companies in capital markets
- Delegation of specific functions to UK bodies,
- Ultimate enforcement to remain in Guernsey,



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Background

- States Approval
 - January 2007 – States Report on the new Company Law
 - September 2007 – supplementary states report on introducing the directive by Ordinance
- Consultation:
 - June 2009 – consultation on the legislative framework
 - July 2009 – consultation on the audit rules (there had been prior consultation in Jersey and the Isle of Man)



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Guernsey's Oversight Regime

- Legislation approved on 24 March 2010, part XVIA of the Company Law
- Commenced on 13 April 2010
- Covers auditors of Guernsey companies whose transferable securities are admitted to trade on an EU regulated market (“market traded companies”)
- All auditors of market traded companies must be registered with the Registrar of Companies to be “Recognised Auditors”



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Eligibility for Registration

1. Must meet general qualification requirements:
 - Membership of an appropriate professional body (for individuals), control by members of an appropriate professional body (s.260 of Company Law)
 - “Appropriate professional body” defined as the ICAEW, ICAI, ICAS and ACCA
2. Bound by the approved Crown Dependency Audit Rules (section 274E of the Company Law)
3. Successfully apply for Registration as a recognised auditor at the Company Registry (section 274B of the Company Law),



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Registration Process

- Common fees in all three Crown Dependencies
 - Application fee £1000,
 - Annual renewal of £750,
- Audit Firm must pay an annual fee to the ICAEW which will cover its costs and those of the POB and AIU,
- Registrar will verify information provided before registration (usually through consulting the ICAEW)



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Obligations

- Recognised Auditors must at all times:
 - Appoint Responsible Individuals (RIs) to sign off on audits of market traded companies,
 - Notify the Registrar of any matter which may affect that auditor's eligibility to be registered as a recognised auditor,
 - Any contravention of the audit rules of which it is aware,
- Recognised Auditors must on the Registrar's Request:
 - Provide any information requested by the Registrar,
 - If requested verify that information in such form as required by the Registrar



Responsible Individuals

- Registered Auditor must appoint Responsible Individuals (“RIs”),
- Audits of Market Traded Companies must be signed by an RI (section 274G of the Company Law)
- To be appointed as an RI the person must:
 - be a member of one of the four recognised professional bodies,
 - comply with the Crown Dependency Audit Rules,
 - Be certified by the recognised auditor as appropriately competent and experienced to carry out audits of market traded companies,



The Register of Auditors

- Administered, maintained and enforced by the Company Registry (section 274B of the Company Law),
- Available at www.guernseyregistry.com
- Includes:
 - The name and address of the registered auditor
 - The name and address of the Guernsey resident partners or directors of the auditor (if a firm)
 - The name of the recognised supervisory body of which the recognised auditor is a member,
 - The Responsible Individuals appointed by the recognised auditor



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The Audit Rules

- Common Rules in all three Crown Dependencies,
- Developed by the ICAEW in conjunction with the authorities in the Crown Dependencies,
- Approved as a statutory instrument by the Commerce and Employment Department on 13 April 2010 in the *Companies (Recognition of Auditors) Regulations, 2010*,
- Based on the UK and Irish audit rules,



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Independent Oversight

- Appointment by the Registrar of:
 - the ICAEW as a recognised professional body,
 - The Professional Oversight Board as the oversight body
- Delegation of oversight functions the POB
- Delegation of monitoring functions to the ICAEW
- ICAEW responsible for:
 - Compliance monitoring of Recognised Auditors
 - Inspection of Recognised Auditors at least once every three years,
 - Enforcing the Audit Rules,



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Independent Monitoring

- ICAEW has a range of disciplinary powers and sanctions including:
 - Imposing restrictions or conditions on how the auditor carries out its work,
 - Fining an auditor,
 - Publication of its orders or decisions,
 - Recommending to the Registrar the suspension or withdrawal of registration of the auditor's
- Internal Appeals mechanism built into the Audit Rules



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Oversight by the POB

- Professional Oversight Board appointed by the Registrar
- Registrar has delegated certain enforcement powers to the POB
- POB responsible for:
 - Overseeing and monitoring the work of the ICAEW,
 - Through the POB's audit inspection unit ("the AIU") reviewing audits of public interest entities,
 - Reporting to the Company Registrar and the Commerce & Employment Department on the operations of the framework,



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Powers of the POB

- Delegated Powers include:
 - Through the AIU to inspect any registered audit firm and any audit file of any company subject to the regime,
 - To require the ICAEW to take disciplinary action against a recognised auditor,
 - Power to call for information from any registered auditor,
 - Power issue compliance orders against the ICAEW is satisfied that the ICAEW has failed to fulfil its obligations under the Company Law.



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Enforcement

- Criminal Offences:
 - Accepting appointment as an auditor of a market traded company whilst not-registered,
 - Providing a false, deceptive or misleading statement to the Registry, the POB or the ICAEW in connection with the auditor oversight regime,
 - Fines of up to £10,000 imprisonment up to 2 years
- Regulatory/Disciplinary Offences
 - Removal from the Register of Recognised Auditors,
 - Discipline by the ICAEW



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Transitional Provision

- Legislation Brought into force 13 April 2010,
- Transitional period in operation until 5 July 2010,
- During the transitional period all provisions are in operation except:
 - Consequences of non-recognition –provides auditors currently auditing market traded companies with a period to register
 - Criminal Offence Provisions which apply for auditing a market traded company when not registered,



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Equivalence

- Guernsey is subject to transitional arrangements under the directive, those expire at the end of 2010, but will be extended
- The Crown Dependencies applications for equivalence will proceed in 2011/12,
- Process:
 - Assessment by the expert advisory group appointed by the European Commission,
 - European Commission makes a recommendation to the member states
 - Member States may approve or reject that recommendation



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Equivalence (cont)

- Support of the POB critical,
- Demonstration of the effectiveness of the process in practise – an expectation that monitoring visits are being carried out,



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Finally!!

You must register by:

5 JULY 2010

Visit: www.guernseyregistry.com



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