

Recognised Auditors Key Criteria For Registration

Criteria

Criterion 1: Qualification as an auditor

All auditors must be members of an appropriate body. Those appropriate bodies are presently defined in section 260 of the Company Law as:

- The Institute of Chartered Accountants of England and Wales
- The Institute of Chartered Accountants in Ireland,
- The Institute of Chartered Accountants in Scotland, and
- The Association of Chartered and Certified Accountants

For firms and bodies corporate they must be controlled by a majority of members of the appropriate bodies listed above.

Criterion 2: Membership of a Recognised Supervisory Body

Section 274H provides that the appropriate bodies listed above are also potentially recognised supervisory bodies for the purposes of market traded companies. However the Department intends at the outset to commence with a requirement that all auditors of market traded companies must be members of the Institute of Chartered Accountants of England and Wales. Over time it is anticipated that the other institutes will also be approved as recognised supervisory bodies in due course.

However members of institutes other than the ICAEW are entitled to apply to the Registry for approval as a Recognised Auditor. Once registered those auditors will be subject to oversight by the ICAEW and bound by the Crown Dependency Audit Rules (see next section).

Criterion 3: Bound by rules that govern the conduct of the audit of market traded companies

Upon Registration with the Registry all auditors will be subject to the Crown Dependency Audit Rules. As part of the application process Recognised auditors will be obliged to confirm that they agree to be bound by those rules.

The Commerce and Employment Department has approved rules which have been

issued by the Institute of Chartered Accountants in England and Wales (the “ICAEW”). The rules are common to auditors of market traded companies in Jersey, Guernsey and the Isle of Man and, accordingly, are titled the, “Crown Dependencies’ Audit Rules” (the “Audit Rules”). They are based on similar rules that apply to statutory auditors in the UK.

Once an auditor is registered as a Recognised Auditor, rule 2.06 of the Audit Rules places an ongoing obligation on the auditor to meet the requirements of the Audit Rules. A breach of the Audit Rules may result in the Recognised Auditor being subject to regulatory or disciplinary action by the ICAEW under Chapters 7 or 9 of the Audit Rules. In addition, a breach of the Audit Rules is one of the grounds on which the Registrar may suspend or revoke the registration of a Recognised Auditor under section 274Q.

Criterion 4: Make a successful application to the Registry

Section 274B of the Law provides that auditors who, under section 274E, are qualified to be Recognised Auditors may apply to have their name entered on the Register of Recognised Auditors by applying to the Registrar in the manner prescribed by the Registrar and by paying the published fee.

If an application is successful, the auditor's name will be entered on the Register of Recognised Auditors that is published on the Registry's website.

Monitoring compliance with the Audit Rules

The ICAEW will carry out periodic inspections of Recognised Auditors to monitor their compliance with the Audit Rules.

Recognised Auditors may also be subject to inspections by the Audit Inspection Unit (the “AIU”) (part of the Professional Oversight Board (the “POB”) of the UK's Financial Reporting Council) in respect of the audit of market traded companies that fall within the FTSE 100 Index.

Recognised Auditors are requested to note that, in addition to the fees payable by Recognised Auditors to the Registrar the ICAEW will levy an annual fee on Recognised Auditors to cover the cost of its periodic inspection work. The fee will also include an amount (as does the similar type of fee payable to the ICAEW by statutory auditors in the UK) to cover the inspection work of the AIU and the oversight work of the POB. Details of this fee are available from the ICAEW.

The role of the Professional Oversight Board of the UK's Financial Reporting Council As it does in the UK, the POB will act as the independent body responsible for overseeing the work of the ICAEW in monitoring the compliance of Recognised Auditors with the Audit Rules.

The Department will appoint the POB as the professional oversight body by regulations made under section 274V of the Company Law.

The EU's Statutory Audit Directive

EU Directive 2006/43/EC, commonly known as the "Statutory Audit Directive", introduced harmonised provisions in all EU Member States relating to auditor eligibility and independent oversight (quality assurance). The Directive had to be transposed into each Member State's national law by the end of June 2008.

Once certain transitional provisions have expired, the Directive will subject auditors of 'third country' (i.e. non-EU) companies with securities admitted to trading on an EU regulated market (e.g. a Guernsey market traded company) to the auditor registration and oversight provisions in the relevant Member State where the company's securities are admitted to trading.

However, an EU Member State may grant a derogation from this requirement (but will not be obliged to grant such a derogation) where the third country auditor is subject to an EU equivalent system of public oversight, quality assurance, investigations and penalties (see Article 46 of the Directive).

The Guernsey oversight regime under the Companies Law for Recognised Auditors is expected to meet the equivalence requirements of Article 46 of the Directive, although a formal assessment of equivalence is unlikely to be carried out by the European Commission before the first half of 2011. An assessment of equivalence may avoid the need for a Recognised Auditor –

- to have to apply for registration in each Member State in which it acts as auditor to a market traded company; and
- to be subject to the systems of oversight, quality assurance, investigation and penalties in each Member State in which it is registered,

although it will be up to each Member State to determine the extent to which it recognises the equivalence of third country regimes. However, the Department understands that is the intention of the European Commission to encourage Member States to fully recognise an assessment of equivalence carried out by it.

Do you need further information or assistance?

The Registry is open between the hours of 9.30am and 4.00pm Monday to Friday with the exception of Wednesdays where we open at 10.00pm. The Registry is located on the 4th floor of the market building and can be accessed through the main doors at the lower end of Fountain Street.

If you have any other issues or queries you can contact the Registry by telephone or you can email your query to enquiries@guernseyregistry.com.

Contact Address

Guernsey Registry
4th Floor, Market Building
PO Box 451
Fountain Street
St. Peter Port
Guernsey
GY1 3GX

Tel: 01481 743800

The purpose of this guidance note is to provide a prompt on certain issues that should be considered with regards to registration as a Recognised Auditor.

It is not intended to be definitive legal advice and should not be relied upon as such.

The interpretation of the Companies (Recognition of Auditors) Ordinance, 2010 is a matter on which the Guernsey Registry cannot advise and companies need to form their own view on compliance with the legislation.

Independent legal advice is advised where there is any uncertainty.