

2006 No. 2782

COMPANIES

**The Companies Act 1985 (Small Companies' Accounts and
Audit) Regulations 2006**

<i>Made</i> - - - -	<i>16th October 2006</i>
<i>Laid before Parliament</i>	<i>16th October 2006</i>
<i>Coming into force</i> - -	<i>8th November 2006</i>

The Secretary of State, in exercise of the powers conferred by section 257 of the Companies Act 1985(a), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Companies Act 1985 (Small Companies' Accounts and Audit) Regulations 2006.

(2) These Regulations come into force on 8th November 2006 and apply to annual accounts and reports in respect of financial years ending on or after 31st December 2006.

(3) In these Regulations, the “1985 Act” means the Companies Act 1985.

Disapplication of special accounting provisions for small companies

2.—(1) Section 247A of the 1985 Act (cases in which special accounting provisions for small and medium-sized companies do not apply)(b) is amended as follows.

(2) For subsection (1B) substitute—

“(1B) A company that qualifies as small in relation to the financial year to which the accounts relate is ineligible if—

- (a) it is a public company,
- (b) it is an authorised insurance company, a banking company, an e-money issuer, an ISD investment firm or a UCITS management company, or
- (c) it carries on an insurance market activity.

(1C) A company that qualifies as medium-sized in relation to the financial year to which the accounts relate is ineligible if—

- (a) it is a public company,
- (b) it has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a regulated activity, or

(a) 1985 c.6; section 257 was substituted by section 20 of the Companies Act 1989 (c.40), and amended by section 13 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27).

(b) Section 247A was inserted by regulation 4 of S.I. 1997/220, and amended by article 11 of S.I. 2001/3649, by regulation 6 of S.I. 2005/1011 and by regulation 13 of S.I. 2005/2280.

(c) it carries on an insurance market activity.”.

(3) In subsection (2)—

(a) in paragraph (b), after “a person” insert “(other than a small company)”, and

(b) for “or” at the end of that paragraph substitute—

“(ba) a small company that is an authorised insurance company, a banking company, an e-money issuer, an ISD investment firm or a UCITS management company, or”.

(4) After that subsection insert—

“(2A) A company is a small company for the purposes of subsection (2) if it qualified as small in relation to its last financial year ending on or before the end of the financial year to which the accounts relate.”.

Exemption for small groups

3.—(1) Section 248 of the 1985 Act (exemption for small and medium-sized groups)(a) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (b), after “a person” insert “(other than a small company)”, and

(b) for “or” at the end of that paragraph substitute—

“(ba) a small company that is an authorised insurance company, a banking company, an e-money issuer, an ISD investment firm or a UCITS management company, or”.

(3) After that subsection insert—

“(2A) A company is a small company for the purposes of subsection (2) if it qualified as small in relation to its last financial year ending on or before the end of the financial year to which the group accounts relate.”.

Dormant companies

4.—(1) Section 249AA of the 1985 Act (dormant companies)(b) is amended as follows.

(2) In subsection (2)(a), for “of section 247A(1)(a)(i) or (b)” substitute “to it of subsection (1A), (1B)(a) or (1C)(a) of section 247A”.

(3) In subsection (3), for paragraph (a) substitute—

“(a) an authorised insurance company, a banking company, an e-money issuer, an ISD investment firm or a UCITS management company;”.

Cases where exemption from audit not available

5.—(1) Section 249B(1) of the 1985 Act (cases where exemption from audit not available)(c) is amended as follows.

(2) For paragraph (b) substitute—

“(b) it was an authorised insurance company, a banking company, an e-money issuer, an ISD investment firm or a UCITS management company.”.

(3) Omit paragraph (d).

(a) Section 248 was substituted by section 13(3) of the Companies Act 1989, and amended by regulation 9 of S.I. 1996/189 and by article 12 of S.I. 2001/3649.

(b) Section 249AA was inserted by regulation 3 of S.I. 2000/1430, and amended by article 13 of S.I. 2001/3649 and by regulation 15 of S.I. 2005/2280.

(c) Section 249B was inserted by regulation 2 of S.I. 1994/1935, and amended by regulation 10 of S.I. 1996/189, by regulation 3 of S.I. 1997/936, by regulation 4 of S.I. 2000/1430 and by regulation 16 of S.I. 2005/2280.

Definitions

6.—(1) Section 262(1) of the 1985 Act (minor definitions)(a) is amended as follows.

(2) At the appropriate places insert—

““e-money issuer” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on the activity of issuing electronic money within the meaning of article 9B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(b);”;

““ISD investment firm” has the same meaning as in the General Provisions and Glossary Instrument 2001 made by the Financial Services Authority under the Financial Services and Markets Act 2000(c);”;

““UCITS management company” has the same meaning as in the Collective Investment Schemes (UCITS Amending Directive) Instrument 2003 made by the Financial Services Authority under the Financial Services and Markets Act 2000(d).”.

(3) In the definition of “regulated activity”—

(a) at the end of paragraph (cb) omit “or”, and

(b) after paragraph (d) insert—

“, or

(e) article 64 (agreeing to carry on a regulated activity of the kind mentioned in paragraphs (a) to (d) above);”.

(4) In section 262A of the 1985 Act (index of defined expressions)(e), at the appropriate places insert—

“e-money issuer	section 262”;
“ISD investment firm	section 262”;
“UCITS management company	section 262”.

Consequential amendments

7.—(1) Schedule 1 to the Limited Liability Partnerships Regulations 2001(f) is amended as follows.

(2) For the entry relating to section 247A substitute—

“subsection (1B) Omit paragraphs (a) and (c), and the words “an authorised insurance company, a banking company,” in paragraph (b).

subsection (1C) Omit paragraphs (a) and (c).
In paragraph (b), after “it” insert “is a person (other than a banking limited liability partnership) who”.”.

(3) In the entries relating to section 249AA—

(a) for the entry relating to subsection (2) substitute “In paragraph (a), omit “(1B)(a) or (1C)(a)”.”, and

(a) Section 262 was amended by regulation 17 of S.I. 2005/2280, and by article 26 of S.I. 2006/2383.

(b) S.I. 2001/544, as amended by S.I. 2002/682.

(c) FSA Instrument 2001/7, made on 21st June 2001 and published by the FSA at http://fsahandbook.info/FSA/handbook/LI/2001/2001_7.pdf.

(d) FSA Instrument 2003/47, made on 17th July 2003 and published by the FSA at http://fsahandbook.info/FSA/handbook/LI/2003/2003_47.pdf.

(e) Section 262A was amended by regulation 17 of S.I. 2005/2280.

(f) S.I. 2001/1090, as amended by S.I. 2004/355, by regulation 2 of, and Schedule 1 to, S.I. 2005/1989 and by regulation 18 of S.I. 2005/2280.

(b) for the entry relating to subsection (3) substitute—

“subsection (3) For subsection (3) substitute the following—
“(3) Subsection (1) does not apply if at any time in the financial year in question the limited liability partnership was an e-money issuer, an ISD investment firm or a UCITS management company.””.

(4) For the entry relating to section 249B(1)(b) substitute the words “in paragraph (b), omit the words “an authorised insurance company, a banking company,””.

16th October 2006

Jim Fitzpatrick
Parliamentary Under-Secretary of State for Employment Relations
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the accounting and auditing provisions in Part 7 of the Companies Act 1985 (“the 1985 Act”) as they apply to small companies. They extend to small companies which have permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a regulated activity, the accounting and audit exemptions afforded to other small companies by Part 7, unless such companies are—

- authorised insurance companies (within the meaning of section 742C of the 1985 Act);
- banking companies (within the meaning of section 742B of the 1985 Act);
- e-money issuers (see regulation 6 amending section 262 of the 1985 Act);
- ISD investment firms (see regulation 6 amending section 262 of the 1985 Act);
- UCITS management companies (see regulation 6 amending section 262 of the 1985 Act).

Amendments consequential to the amendments made by regulations 2 to 6 are made to the Limited Liability Partnerships Regulations 2001 (S.I. 2001/1090) by regulation 7.

Regulation 4(2) makes a consequential amendment to section 249AA(2) of the 1985 Act (dormant companies) that was missed when section 247A of the 1985 Act was amended by regulation 6 of the Companies Act 1985 (Operating and Financial Review and Directors’ Report etc.) Regulations 2005 (S.I. 2005/1011).

For completeness, regulation 6(3)(b) adds the specific regulated activity of agreeing to carry on one of the excluded regulated activities listed in section 262.

The Regulations apply in respect of financial years ending on or after 31st December 2006.

A Regulatory Impact Assessment of the effect that this instrument will have on the costs of business is available from the Department of Trade and Industry, Corporate Law and Governance Directorate, 1 Victoria Street, London SW1H 0ET (it is also available electronically at www.dti.gov.uk/bbf). Copies have also been placed in the libraries of both Houses of Parliament.

STATUTORY INSTRUMENTS

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