



Department for
Business, Energy
& Industrial Strategy

The UK government's position on the effect of the ESEF Regulation on the directors' sign-off of accounts of UK-incorporated users



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Overview

1. The European Commission published a Delegated Regulation on use of the European Single Electronic Format (ESEF) on 29 May 2019¹ (the ESEF Regulation).
2. This note sets out BEIS's position on the directors' sign-off of accounts of those companies that are subject to the requirements of the Transparency Directive (which are implemented in the UK in the FCA's Disclosure Guidance and Transparency Rules sourcebook²) and the ESEF Regulation. The contents of this note should not be considered to be legal advice - if in doubt companies should seek their own legal advice.
3. In particular, this note addresses the question of whether directors must consider the iXBRL tagging when confirming that the accounts meet the requirements of the Companies Act 2006 and give a true and fair view of the company's financial position.

Summary of position

4. The ESEF Regulation applies to consolidated annual accounts prepared in accordance with International Financial Reporting Standards by companies with securities admitted to trading on a regulated market. When published under the Transparency Directive (2004/109/EC), these accounts must be prepared in electronic format (XHTML format with iXBRL tagging). This applies for financial years beginning on or after 1 January 2020.
5. The electronic formatting requirements in the ESEF Regulation can be applied after sign off of the annual accounts by the directors. In practical terms this means the directors' confirmation that the accounts meet the requirements of the Companies Act, and give a true and fair view of the company's financial position, does not extend to consideration of the iXBRL tagging. This is the case even if the company chooses to tag the accounts before submitting them to be signed off by the directors.

What new formatting requirements does the ESEF Regulation set out?

6. Technical detail relating to the requirements of the European Single Electronic Format (ESEF) can be found on the European Securities and Markets Authority (ESMA) website³, and in the FCA Quarterly Consultation⁴ on transposing Article 4(7) of the Transparency Directive, published in September 2019, which includes a brief overview of the ESEF regulation's requirements.

¹ Commission Delegated Regulation on a European Single Electronic Format (ESEF) (2019/815, which was amended by Delegated Regulation 2019/2100) ('the ESEF Regulation'). Delegated Regulation 2019/815 is at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02019R0815-20190529&from=en>. Delegated Regulation 2019/2100 is at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R2100&from=EN>.

² The relevant rules (DTR 4.1.14) can be found here: <https://www.handbook.fca.org.uk/handbook/DTR.pdf>

³ <https://www.esma.europa.eu/policy-activities/corporate-disclosure/european-single-electronic-format>

⁴ <https://www.fca.org.uk/publication/consultation/cp19-27.pdf#>

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7. In summary, the intention of the ESEF Regulation is to ensure that certain sections of the annual accounts of many companies within scope of the Transparency Directive are 'machine readable'. This is achieved by requiring certain issuers to 'tag' specified disclosures in the accounts using structured data formatting processes. The annual accounts in ESEF will include the 'normal' visual copy of the accounts in an electronic format, as a file in XHTML format, with specified XBRL tagging to ensure that sections of the accounts are 'machine readable'.⁵
8. In the UK, this requirement will apply to all issuers that are subject to the FCA's Disclosure Guidance and Transparency Rules Sourcebook and that prepare their consolidated accounts in accordance with IFRS. This is irrespective of where they are incorporated. By contrast, there is no such requirement for UK and EU issuers that only prepare individual accounts, though they may do so voluntarily.

What requirements will come into effect and when?

9. The ESEF Regulation came into force on 18 June 2019 and applies to annual accounts for financial years beginning on or after 1 January 2020.
10. When directors consider whether to approve company accounts as having been prepared in accordance with the Companies Act, there is no requirement for them to consider the tagging of the accounts in ESEF and in particular to consider this as part of whether the accounts are "true and fair". Indeed, the tagging can be applied later, in a version prepared in XHTML format with iXBRL tagging.

What has BEIS taken into account in forming this view?

11. Under the Transparency Directive (2004/109/EC - Article 4(3)), where consolidated accounts are required to be prepared in accordance with the Accounting Directive (2013/34/EU), they must also be prepared in accordance with the International Accounting Standards (IAS) Regulation (1606/2002), where applicable⁶.
12. The Accounting Directive and IAS Regulation apply to a wider category of companies than those in scope of the Transparency Directive, and they do not require the preparation of accounts in machine readable format as required by the Transparency Directive and the ESEF Regulation. BEIS therefore considers that the requirement for preparation of accounts that give a true and fair view under the Accounting Directive⁷ arises prior to any electronic tagging requirements under the Transparency Directive and ESEF Regulation (where applicable).

⁵ An explanation of iXBRL is provided by Gov.uk at the following link:

<https://www.gov.uk/government/publications/xbrl-guide-for-uk-businesses/xbrl-guide-for-uk-businesses>

⁶ The Directive also provides that, in cases where the issuer is not required to prepare consolidated accounts, the accounts must be prepared in accordance with the national law of the Member State in which the issuer is incorporated. In addition, if the issuer is incorporated in a third country, the issuer may be permitted to prepare their accounts in accordance with the same IFRS standards as for consolidated accounts in the EU or in accordance with equivalent standards, which would include International Financial Reporting Standards as issued by the IASB.

⁷ This requirement is set out in UK law in section 393 of the Companies Act 2006.

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13. Accordingly, any electronic tagging requirements can be applied after the directors have satisfied themselves that the accounts meet the requirements of the Companies Act and give a true and fair view of the company's assets, liabilities, financial position and profit or loss as required by the Act. In terms of their process, companies may choose to create a single filing, a parallel tagged document, or the creation of a tagged document once the annual report has been completed in paper format. Notwithstanding the various approaches that companies may take, in all cases, the directors' confirmation relates to the human-readable version of the annual report and therefore does not extend to consideration of the iXBRL tagged data.

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