



Department for
Business, Energy
& Industrial Strategy

EU EXIT AND COMPANY LAW

Guidance covering legislative and practical changes to the UK's Company Law framework as a result of Brexit in a No Deal scenario



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Introduction

To help your company prepare for Brexit you should familiarise yourself with the contents of this Guidance that covers changes as they relate to the Companies Act 2006 and the wider framework of corporate law and accounting and audit regulation in a No Deal scenario¹. In nearly all cases the changes will only impact businesses that have a cross-border relationship with the EU – either through conducting business operations in the EU, by being an EU company or individual operating in the UK, or by being a UK subsidiary or branch with an EEA parent. In most cases the changes will be minimal. There are more detailed requirements in relation to auditors that are covered from page 17 onwards.

This document collects into one place all guidance previously published that relates to EU Exit related changes to the UK's company law framework. These documents should be read in full and can be found through the following links:

<https://www.gov.uk/guidance/accounting-if-theres-no-brex-it-deal>

<https://www.gov.uk/guidance/auditing-if-theres-no-brex-it-deal>

<https://www.gov.uk/guidance/structuring-your-business-if-theres-a-no-deal-brex-it>

<https://www.gov.uk/guidance/changing-your-company-registration-if-the-uk-leaves-the-eu-without-a-deal>

<https://www.gov.uk/guidance/changes-to-companies-house-forms-in-the-event-of-a-no-deal-brex-it>

The Government has now laid, or is in the process of laying, all necessary Statutory Instruments that will ensure the UK's company law framework is up to date and reflects the UK's status outside of the EU. You should also refer to the specific legislative changes made in the relevant Statutory Instruments, and the accompanying explanatory memorandum, for each instrument. The links to these documents can be found in Annex A, 'Additional Information'.

In addition, you should also refer to relevant updated Companies House guidance. These can also be found in Annex A, 'Additional Information'.

You can direct any questions or feedback on this guidance document to:

companylaweuexit@beis.gov.uk

¹ In a Deal scenario the changes will take effect after the implementation period and subject to any transitional period that applies to specific changes.

General company law requirements after Brexit

Filing and disclosure changes for companies

The UK's departure from the EU has created the need for various aspects of the Companies Act 2006 and Regulations made under that Act, as they relate to filing requirements and certain company processes, to be updated to reflect the UK's position outside of the EU. These changes will impact only a small number of companies. The changes will be brought into effect on exit day via the Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (2019/348).

In the main changes to filing requirements will only impact UK companies who appoint or who have appointed the services of an EEA corporate officer (director or secretary) and EEA-registered companies which have registered a UK establishment. It also removes access to EU processes and systems so that after exit day UK companies will no longer be able to use the EU cross-border merger regime (implemented in the UK through the Companies (Cross-Border Mergers) Regulations 2007).

Who the changes affect:

- UK companies who employ an EEA corporate officer (director or secretary)
- EEA-registered companies which have registered a UK establishment (including newly registered UK Societas and UK EIGs)

What companies need to do:

a) UK company with an EEA corporate officer

UK companies which currently have a corporate officer which is a (non-UK) EEA registered limited company will have to provide additional information to Companies House². The additional information³ is:

- legal form and its governing law

b) Changes for registered overseas companies

EEA companies which have registered a UK establishment will need to provide additional information to Companies House and publish additional information on customer-facing material.⁴ The additional information required by Companies House is:

- Information on the law under which the company is incorporated
- The address of its principal place of business or registered office

² Amendments to Sections 164 and 278 of the Companies Act 2006.

³ Alongside existing information which is: name; registered (or principal) office address and register and registration number (if applicable).

⁴ Amendments made to the Overseas Companies Regulations 2009 (Regulations 6 and 63) (<https://www.legislation.gov.uk/uksi/2009/1801/contents/made>)

- The company's purpose (its 'objects')
- The amount of share capital issued
- The company's accounting period and period of disclosure (for companies that are required to disclose accounts under their parent law).

The additional information required to be published on public facing material such as websites, letterheads and order forms is⁵:

- the location of its head office
- the legal form of the company
- its limited liability status
- and if applicable, notice that the company is being wound up, or is subject to insolvency or any other analogous proceedings.
- And for companies that choose to refer to their share capital on order forms etc., they must do this by reference to paid up capital.

Companies affected will have three months from exit day to provide Companies House with the additional information required. They will need to provide the additional information to Companies House by filling in and sending Companies House the relevant form. Updated forms will be available electronically from exit day.

Cross-border mergers

After exit day UK companies will no longer be able to make use of the EU cross-border merger regime, implemented into UK law through the Companies (Cross-Border Mergers) Regulations 2007. The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 will revoke these Regulations on exit day.

This means that any cross-border merger involving a UK and EEA company (or partnership) that has not been completed before exit day may fall.

Who these changes affect:

- Any UK company taking part in a cross-border merger with an EEA company under the Companies (Cross-Border Mergers) Regulations 2007 that has not been completed by exit day.

What companies need to do:

- If a company is undergoing a cross-border merger under the EU cross-border merger regime they should seek urgent legal advice on the status of their merger.

⁵ Alongside existing information which is: the company's country of incorporation, the identity of the registry, if any, in which the company is registered in its country of incorporation and if applicable, the number with which the company is registered in that registry.

- After exit companies seeking a merger with another company outside of the UK will need to transfer assets and liabilities using contractual arrangements (as happens now between UK and non-EEA companies).

SEs and EEIGs

On exit day Societas Europaea (SEs) and European Economic Interest Groupings (EEIGs) will no longer be available as company structures to UK companies. UK companies that used these company structures before exit day have been given the opportunity to convert to a new form of UK corporate entity or move their registered office outside of the UK.

Any entities that have either not completed the conversion process or have not converted or transferred out of the UK before exit day, will automatically be converted to a new UK corporate entity. The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (2018/1298) and the European Economic Interest Grouping (Amendment) (EU Exit) Regulations 2018 (2018/1299) brought these changes into effect.

The new corporate entities will preserve many of the features of the SE and EEIG framework but there will be no ability to transfer their registered office out of the UK.

As the UK will no longer be part of the EU framework for SEs, those entities with a presence in the UK will be subject to the same requirements as other companies currently qualifying as overseas companies under the Overseas Companies Regulations and will need to file information with Companies House in line with these regulations.

Who these changes affect:

- Societas Europaea registered in the UK.
- European Economic Interest Groupings registered in the UK.
- Societas Europaea registered in EU Member States who have a branch or establishment in the UK.

What companies need to do:

- Any entities that did not transfer before exit day will automatically be converted to a new UK corporate entity: a UK Societas or a UKEIG. These entities do not need to take any action.
- UK Societas and UK EIGs will need to ensure that the new corporate identifier is reflected on their websites, stationery and other public facing documents. The new corporate identifier, UK Societas or UKEIG, must be used in place of SE or EEIG.
- UK Societas who have made use of the employee involvement provisions in the SE framework should familiarise themselves with the new requirements⁶ (see particularly regulations 48-82 and 146-159). These are similar but not identical to those for SEs.
- SEs registered in the EU with branches or establishments in the UK will have to register these branches or establishment with Companies House under the Overseas Company

⁶ <http://www.legislation.gov.uk/ukxi/2018/1298/contents/made>

Regulations (see Schedule 3 of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc) (EU Exit) Regulations 2019 (SI No. 2019/685) for post exit requirements).

The companies affected by the above changes will have three months from exit day to make the changes. Further guidance on the actions that new UK Societas and UK EIGs need to complete can be found on gov.uk⁷.

Removal of benefits for certain UK companies only listed on an EEA market

Leaving the European Union necessitated an update to the definition of ‘regulated market’ as it appears in the Companies Act 2006 (and related legislation). The definition covers financial regulated markets: an exchange for buying and selling interests in financial instruments⁸.

There are two changes of the definition that will affect certain groups of companies. In both cases the amendment was required to ensure that all non-UK entities are treated in the same way after exit day so that the UK complies with World Trade Organisation rules⁹.

The change removes preferential treatment for entities listed on EEA regulated markets so that after exit day only entities listed on UK regulated markets benefit from certain benefits.

Who these changes affect:

- Intermediaries who deal in securities that are listed on an EEA regulated market - and do not have access to a UK regulated market - and who own shares in a parent holding company¹⁰.
- Investment companies listed on an EEA regulated market - and not on a UK regulated market - and that currently make use of relaxations on controls on their distribution of profits¹¹.

What companies need to do:

- Intermediaries who deal in securities, who do not have access to a UK regulated market, do not need to do anything – as they can continue to hold the shares- but they will no longer be able to exercise the voting rights attached to those shares.
- UK investment companies listed on an EEA regulated market and not a UK regulated market will no longer be able to make use of relaxations on controls on their distribution of profits.

⁷ <https://www.gov.uk/guidance/changing-your-company-registration-if-the-uk-leaves-the-eu-without-a-deal>

⁸ The definition is amended in the Accounts and Reports (Amendment) (EU Exit) Regulations 2018 in line with the changes made to definition in the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (which separates the regulated market definition into “UK regulated market” and “EU regulated market”).

⁹ For further information: https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm

¹⁰ Section 136 of the Companies Act 2006 prohibits subsidiaries from having shares in their holding company. Section 141 of the Act offers an exemption for a subsidiary company if they are intermediaries who deal in securities, hold the share in the ordinary course of its business and meet certain conditions including membership of or access to a regulated market. Section 141 is being amended to replace “regulated market” with “UK regulated market”.

¹¹ In section 832 of the Companies Act 2006, investment companies are permitted to make distributions under certain conditions which includes (section 832(5)(a)) that the company’s shares must be admitted to trading on a regulated market. Section 832 is being amended to replace “regulated market” with “UK regulated market”.

Shareholder approval of political donations

Amendments to Part 14 of the Companies Act 2006 have been made to reflect the UK's status outside of the EU. This part of the Companies Act sets out the shareholder authorisation(s) required to allow a company to donate to political parties, organisations and candidates for electoral office. After exit these authorisations will only apply to donations and expenditure relating to UK based political parties, organisations and candidates for electoral office. Political donations to non-UK parties, organisations and candidates will be covered by the rules in the relevant country, as is the case in the UK under the Political Parties, Elections and Referendums Act 2000.

Who these changes affect:

- UK companies who wish to make donations to an EEA political party, organisations and candidates.

What companies need to do:

- Check the requirements and rules relating to political donations in the relevant jurisdiction.

Other amendments to the UK company law framework

Two other changes were also required to the company law framework to reflect the UK's status outside of the EU. These have been grouped together below and cover: naming controls applied to non-UK companies after exit¹², as applied by Companies House, and restrictions on who Companies House can send sensitive information to, relating to UK directors¹³. In relation to naming controls, after exit, the UK will have no ability to make sure that naming requirements have been followed by EEA companies. The change therefore ensures that after exit day the same naming rules are applied to all non-UK companies. In relation to Companies House only being able to share data with UK based credit reference agencies, the change is in line with non-EEA disclosure requirements now - where Companies House cannot, for example, send protected information outside of the EEA.

Who these changes affect:

- EEA companies registering a UK establishment under the Overseas Companies Regulations.

¹² Section 1047 (Registered name of overseas companies) amended so that that after exit day the provisions in Part 5 of the Companies Act (a company's name) that apply "checks" to the company name that is submitted to Companies House for registration will apply to EEA companies in the same way that it applies to all other overseas companies.

¹³ The following Regulations permit disclosure of certain protected information (date of birth and address of company directors) from the Companies Registrar to specified public authorities, and to EEA (including UK) credit reference agencies, credit institutions and financial institutions, and the use by those agencies and institutions of EEA (including UK) data processors to process that information: Schedule 2 to the Overseas Companies Regulations 2009; Schedule 2 to the Companies (Disclosure of Address) Regulations 2009; Schedule 2 to the Companies (Disclosure of Date of Birth Information) Regulations 2015; Schedule 4 to the Register of People with Significant Control Regulations 2016; and Schedule 5 to the Scottish Partnerships (Register of People with Significant Control) Regulations 2017. There is no change to public authorities receiving this information.

- Credit reference agencies who receive personal data relating to UK directors from Companies House.

What companies need to do:

- The companies themselves do not need to do anything. Companies House will apply the checks to the name¹⁴.
- Credit reference agencies need to note that they will only be able to receive information relating to UK directors from Companies House if they are based in the UK. There is a one-year transitional period before this change comes into effect.

¹⁴ After exit day the provisions in Part 5 of the Companies Act (a company's name) that apply "checks" to the company's name that is submitted to Companies House for registration will apply to all non-UK companies.

Accounting requirements after Brexit

The UK's accounting framework will remain largely unchanged after exit day. For example, UK private companies that use UK Generally Accepted Accounting Practice (GAAP) will face no changes to their accounting and reporting requirements as a result of the UK leaving the EU.

Other amendments and updates required by the UK leaving the EU have been reflected in two Statutory Instruments that will come into effect on exit day: the Accounts and Reports (Amendment) (EU Exit) Regulations 2019¹⁵ and the International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019¹⁶.

In the main these regulations ensure that there will be minimal change to the UK's accounting and reporting framework. There are, however, a small number of requirements and changes that certain companies need to note, covering the removal of certain exemptions for some companies as well as updated requirements for listing purposes. These changes and updates are detailed below. Information on how the UK plans to adopt future or amended International Accounting Standards (IAS) issued by the International Accounting Standards Board (IASB) is also included below.

Accounting requirements for UK incorporated companies

Preparing annual accounts using international accounting standards (IAS)

Companies who are currently required to use EU-adopted international accounting standards (IAS) must continue to do so for financial years beginning before but ending on or after exit day. For financial years beginning after exit day companies will need to use 'UK-adopted IAS' instead of 'EU-adopted IAS'. Companies affected should note that in practice these standards are currently the same. There may be differences later if the UK and the EU take different approaches to future standards or amendments.

Who these changes affect:

- Individual companies incorporated in the UK who use EU-adopted IAS.
- Groups of companies where the parent company is incorporated in the UK who use EU-adopted IAS.

What companies need to do:

- Use 'UK-adopted IAS' rather than 'EU-adopted IAS' for financial years beginning after exit day¹⁷.
- These standards (as they will be on exit day) can be found here:

¹⁵ <http://www.legislation.gov.uk/ukxi/2019/145/contents/made>

¹⁶ <http://www.legislation.gov.uk/ukxi/2019/685/contents/made>

¹⁷ You can continue to use EU-adopted IAS as they exist on exit day when preparing your accounts for financial years beginning on or before [exit day] but ending on or after that date.

<https://www.legislation.gov.uk/ukxi/2019/685/schedule/2/made>

and here

<https://www.legislation.gov.uk/ukdsi/2019/9780111188644/part/4>.

Operating as a UK company with EEA listing

Who these changes affect:

- UK incorporated groups that issue debt from a subsidiary incorporated in the EEA that is admitted to trading on an EEA regulated market.
- UK incorporated companies or groups admitted to trading on an EEA regulated market.

What companies need to do:

- Check and comply with local regulatory provisions in the jurisdiction where they have a listing. This may include the need to publish accounts using EU-adopted IAS or IAS as issued by the International Accounting Standards Board (IASB) for the subsidiary, for the parent company or for the whole group.
- They may also need to provide additional assurance to the listing authority that their accounts comply with IAS as issued by the IASB or EU adopted IAS. In practice, this could mean that they need to update or provide a compliance statement alongside their annual accounts.
- They will need to continue to produce accounts in accordance with the UK Companies Act 2006 for domestic filing purposes.

UK subsidiaries and LLPs with an EEA-registered parent

After exit, it may no longer be the case that intermediate UK parent companies with an immediate EEA parent will benefit from exemptions from producing group accounts¹⁸. Likewise, UK incorporated dormant companies with EEA parents will no longer be exempt from preparing or filing individual accounts¹⁹. In practice this means that they need to prepare filings for domestic filing purposes.

UK incorporated companies with an EEA parent will also have certain exemptions removed. This includes an exemption from producing a non-financial information statement if it is included in the EEA parent's consolidated annual report and alteration of accounting reference dates²⁰. Following more recent amendments it also includes exemption from audit for subsidiaries of EA parent undertakings²¹.

Who these changes affect:

- Intermediate UK parent companies with an immediate EEA parent.

¹⁸ Before exit day, they were able to do so if they met the conditions in section 400 of the Companies Act 2006. After exit day, they will be required to meet the conditions in section 401, which after exit day will apply to all intermediate parents with a non-UK immediate parent; it currently applies to those with a non-EEA immediate parent.

¹⁹ Section 394A to 394C and 448A to 448C

²⁰ Schedule 2, paragraphs 4 and 12 of SI 2019/145 <https://www.legislation.gov.uk/ukxi/2019/145/contents/made>

²¹ Regulations 4 and 7 of SI 2019/1392

- UK incorporated subsidiaries with an EEA parent.
- UK incorporated dormant companies with EEA parents.

What companies need to do:

- Intermediate UK parent companies with an immediate EEA parent may no longer be exempt from producing group accounts unless that immediate EEA parent prepares group accounts drawn up in a manner equivalent to UK GAAP, in accordance with UK-adopted IAS, or as on exit day have been deemed equivalent to EU-adopted IAS. Those companies may be required to prepare and file group accounts with Companies House for financial years beginning after exit day²².
- UK incorporated subsidiaries with an EEA parent will not be eligible for certain exemptions from preparing and filing accounts after the UK leaves the EU. Exemption from producing non-financial information statements and alteration of accounting reference dates will be removed for financial years beginning the day after the UK leaves the EU, as will the subsidiaries exemption from statutory audit.
- UK registered dormant companies with EEA parents must file individual annual accounts with Companies House for accounting periods beginning after the UK leaves the EU.

Operating as a UK company with cross-border presence in the EEA

For UK companies that operate a branch in the EEA, UK reporting requirements (such as UK GAAP) may no longer be considered equivalent to the reporting requirements of the EEA countries where they have a presence after exit day.

UK companies that have a presence in the EEA will therefore need to check the local accounting and reporting requirements in each country in which they have a presence.

Who these changes affect:

- UK companies with an EEA presence, for example, a branch.

What companies need to do:

- Check the company reporting requirements applicable to third country companies in the EEA country where they have a presence. For example, where they operate a branch. This is because they need to make sure they comply with specific reporting requirements applicable to third country companies in that EEA state.

Accounting requirements for EEA companies

EEA companies with a UK listing

EEA incorporated groups that issue debt or any other securities, which are admitted to trading on a UK regulated market, can continue to use accounts prepared using EU-adopted

²² For further information refer to Companies House guidance: <https://www.gov.uk/government/publications/life-of-a-company-annual-requirements/life-of-a-company-part-1-accounts>

international accounting standards (IAS) under the UK Transparency Directive (TD) and Prospectus Directive (PD).

Who these changes affect:

- EEA incorporated groups that issue debt or any other securities admitted to trading on a UK regulated market.

What companies need to do:

- No action required. These companies can continue to use accounts prepared using EU-adopted international accounting standards (IAS) under the UK Transparency Directive (TD) and Prospectus Directive (PD)²³.

EEA subsidiaries of UK-registered parent companies

Certain exemptions that were previously afforded to EEA subsidiaries of UK-registered parent companies may not be available after exit. You need to check the specific situation in the EEA state where you have a presence. For example, intermediate EEA parent companies with an immediate UK parent, may no longer be exempt from producing group accounts. This could be the case if the relevant member state's legislation does not extend this exemption to intermediate parent companies with immediate parents registered outside the EEA.

Who these changes affect:

- UK incorporated parent company with a subsidiary based in the EEA.
- Intermediate EEA parent companies with an immediate UK parent.

What companies need to do:

- Check the company reporting requirements applicable to third country companies in the EEA country where they have a presence. For example, where they operate a branch. This is because they need to make sure they comply with specific reporting requirements applicable to third country companies in that EU member state.

Adoption of International Financial Reporting Standards (IFRS) after Brexit

As mentioned above, UK companies will need to use 'UK-adopted IAS' instead of 'EU adopted IAS' for financial years beginning on or after exit day. For new or amended IFRS issued by the International Accounting Standards Board (IASB) the UK will have its own framework for endorsement and adoption.

The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019²⁴ sets out the key components of the UK framework for endorsement and adoption of IFRS. This statutory instrument transfers the European Commission's power to endorse and adopt IFRS to the Secretary of State. In addition, a new UK Accounting Standards Endorsement Board (EB) is being established and

²³ <http://www.legislation.gov.uk/ukxi/2019/707/memorandum/contents>

²⁴ <https://www.legislation.gov.uk/ukxi/2019/685/contents/made>

another statutory instrument, expected in early 2020, will delegate this power of the Secretary of the State to the EB.

The EB will be hosted by a subsidiary of the Financial Reporting Council (FRC) but will be independent in its technical decision making.

Who these changes affect:

- UK companies who currently use EU-adopted IAS to prepare their annual accounts.

What companies need to do:

- Use 'UK-adopted IAS' rather than 'EU-adopted IAS' for financial years beginning after the date of UK's Exit from the EU²⁵.

²⁵ You can continue to use EU-adopted IAS as they exist on exit day when preparing your accounts for financial years beginning on or before EU exit date but ending after that date.

Requirements for auditors and firms after Brexit

There are some key actions in relation to the future of audit regulation that auditors and audit firms need to take on exit day. These actions mainly relate to the registration and recognition of UK auditors and firms and to ongoing UK audits.

There are some requirements that EEA auditors and firms need to note if they operate in the UK but, overall, they will benefit from the UK's decision to offer a transitional period until 31 December 2020. This will be brought into effect on exit day through the Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019.

In relation to the audit framework itself this remains unchanged as the current EU Audit Regulation, which is directly applicable EU legislation, will apply in future as part of UK law. This will be brought into effect on exit day with necessary amendments to make it suitable as domestic law through the Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019.

The information in this guidance is mainly relevant to auditors and firms but should also be noted by their clients.

UK auditors and firms

Recognition of UK Auditors

If you are approved to conduct audit work in the EEA based on a UK audit qualification, then you should have contacted the competent authority in the EEA State(s) where you are currently approved. This will have allowed you to find out whether UK qualifications will continue to be recognised after exit day. If your recognition ceases on exit day then after exit day you should quickly complete your application for registration in the relevant jurisdiction(s).

Who these changes affect:

- UK auditors approved to conduct audit work in an EEA state based on an existing recognition and UK qualification.

What you need to do:

The action you need to take depends on how the competent authority decides to treat UK auditors after exit day.

- **Recognition continues:** If the EEA state where you are approved continues your approval then having confirmed this you need take no further action. You may want to consider communicating this to relevant clients.
- **Recognition ceases:** It could be that the competent authority in the EEA state where you are currently approved will no longer recognise UK audit qualifications. If this is the

case, then you will need to re-establish your eligibility to carry out statutory audit work in that EEA state. As part of this process you may either need to:

- Complete a new aptitude test (because aptitude tests taken before exit day may no longer be recognised after exit day); or,
 - Requalify which is likely to require you to obtain the relevant qualification in that country by sitting some, or all, of the examinations and meeting any other requirements needed to obtain an audit qualification.
- **Pending decisions:** In a situation where an approval decision is likely to still be under consideration by the competent authority on exit day, we recommend you urgently contact the competent authority in the EEA State(s) where you have made the application. The application may continue, or you may need to re-apply and obtain the relevant qualification in that country, as a third country applicant.
 - **New applications:** Any application to be a statutory auditor made to the competent authority of an EEA State on or after exit day will need to be made on the basis that a UK audit qualification may no longer be recognised as equivalent to an EEA audit qualification even when combined with the aptitude test in that jurisdiction. . You may need to complete that process as a third country applicant.

The Government cannot provide specific guidance on how UK auditors will be able re-establish eligibility (where needed) or how long the process may take. We recognise that competent authorities may not be able to offer UK auditors, or firms, advice until the UK is a third country.

If you have any issues, questions or observations in relation to the process as you have found it so far, we would urge you to first contact the recognised supervisory body with which you are registered.

On-going audits

For on-going audits of EEA companies using a UK auditor or audit firm, the auditor or firm should check whether the auditor's or audit firm's registration will continue up to the point the audited accounts must be filed with the registry in the Member State where the company is based.

Who these changes affect:

- UK auditors undertaking the audit of an EEA company, where the audit report needs to be signed after exit.

What you need to do:

- Check with the competent authority in the country where the company is incorporated that the auditor or audit firm will continue to be able to sign off audit reports.
- If you can continue to be able to sign the report no action is required.
- If you cannot sign the report then you should check what steps you can take for your audit opinion to be valid. If, after discussion with your audit client, it appears that there are no practical steps available that can be relied upon to allow you to sign a valid audit report, you may need to consider whether it will be in the best interests of your client to resign as auditor so that your client may appoint a new auditor whose registration as a statutory auditor will continue in that country.

Third country auditors

If your audit firm carries out the audit of a non-EEA company (which after exit will include a UK incorporated company) that is listed on an EEA regulated market, then the firm will need to register as a third country auditor with the competent authority of that EEA State.

Who these changes affect:

- UK auditors and their firms, undertaking the audit of a third country company listed on an EEA regulated market.

What you need to do:

- You should contact the competent authority in the EEA state where the market is based for further information about the application process to become a registered third country auditor, the information that you will be required to submit and the timescales in which your firm must be registered so that an audit report signed by your firm will be valid.

Group audits

If you are a group auditor for a group that includes undertakings across both the EEA and the UK, we do not anticipate any significant issues in relation to carrying out the group audit. This includes for a group auditor of a UK parent with EEA subsidiaries or of an EEA parent with UK subsidiaries. However, you should reassure yourself this is the case particularly in relation to the sharing of confidential information in relation to the local law of each company in a group.

Who these changes affect:

- UK auditors undertaking the group audit for a group that includes undertakings across both the EEA and the UK.

What you need to do:

- You should check with the relevant competent authority of all EEA based components to see if any local restrictions apply on transferring confidential information outside the EEA. If access to confidential information for the purpose of obtaining audit evidence is restricted, the group auditor will need to obtain audit evidence by other means, for example by reviewing the confidential information in the jurisdiction and summarising the evidence in the group audit file.
- Please refer to the section on 'On-going audits' if the UK group auditor also performs statutory audits of EEA subsidiaries.

Application of the EU Audit Regulation

As is the case for several accounting and general company law provisions²⁶, there will be a change to the application of provisions in the audit framework that apply to businesses that issue securities on EU regulated markets. This includes provisions that apply to the audits of Public Interest Entities (PIEs). The definition of a PIE includes banks, insurers and businesses that issues securities on EU regulated markets. In future it will only include banks, insurers and entities on UK regulated markets. The EU Audit Regulation will continue to apply, though with

²⁶ See pages 10 and 14

amendments, and it will apply to this reduced population. The application of provisions that implement certain requirements in the Audit Directive will be affected in the same way.

Who these changes affect:

- UK businesses that issue shares or debt securities on EEA regulated markets and not on UK regulated markets. Also, the auditors of those businesses.

What you need to do:

- You and your auditor may no longer be subject to certain regulatory requirements that apply under the EU Audit Regulation and provisions implementing the Audit Directive. Two examples of these requirements are covered in the discussion that follows.

Blacklisted non-audit services

Non-audit services on the “blacklist” under Article 5 of the EU Audit Regulation will, after exit day, be prohibited for *all* overseas subsidiaries of UK Public Interest Entities (“PIEs” - banks, building societies, insurers and issuers of securities on UK regulated markets).

This means that for firms in the same network as a UK auditor of a UK PIE that previously provided blacklisted services to non-EEA subsidiaries, the services will be subject to the same prohibition.

Meanwhile EEA parent undertakings of UK PIEs and their EEA auditors will not be included as they were previously. Only UK parent undertakings will be included.

These changes will take effect for financial years beginning on or after exit day.

Who these changes affect:

- UK auditors of UK PIEs, and firms in the same network as those auditors, providing non-audit services, covered by the ‘blacklist’, to those PIEs’ non-EEA subsidiaries.
- UK auditors of UK PIEs, and firms in the same network as those auditors, which have been unable to offer non-audit services, covered by the ‘blacklist’, to those PIEs’ EEA parent undertakings.

What you need to do:

- If you are a UK auditor to a UK PIE, check whether you, your firm or a member of your network provides blacklisted non-audit services to any non-EEA subsidiaries of the UK PIE. If any of you do, then you will need to stop providing those services.
- If you are an EEA firm in the same network as an auditor of a UK PIE then you may want to note that any non-UK auditor or audit firm in the network will now be able to offer blacklisted non-audit services to those PIEs’ EEA parent undertakings.
- These changes will come into effect for financial years beginning after exit day.

Requirements and guidance are available in the FRC’s Ethical Standard at:

<https://www.frc.org.uk/getattachment/0bd6ee4e-075c-4b55-a4ad-b8e5037b56c6/Revised-Ethical-Standard-2016-UK.pdf>

Firm ownership

UK auditors and firms that are counted among the required majorities of qualified persons who own or manage an EEA audit firm may not be eligible to be counted after exit day.

Where UK auditors are not eligible to be counted among the required majorities of qualified persons, and the required majority of voting rights includes those held by UK auditors, a firm should have by now considered whether any restructuring is required if it is to continue to be registered and approved as an EEA audit firm.

Who these changes affect:

- UK auditors and firms that are counted among the required majorities of qualified persons who own or manage an EEA audit firm.

What you need to do:

- If the required majority of voting rights in the EEA firm is held by UK auditors, a firm should urgently consider whether any restructuring is required.

EEA auditors and firms

New and existing registrations with UK recognised professional bodies

Existing statutory auditors who have registered with the UK recognised professional bodies based on having passed an aptitude test will have their registration continued after exit day. Any EEA statutory auditor who would like to practise in the UK after exit day will have until 31 December 2020 to become a UK statutory auditor by beginning an aptitude test process (and completing it successfully).

From 1 January 2021 new arrangements will be put in place that reflect that EEA states will be third countries to the UK.

Auditors from the Republic of Ireland will not be affected, and most will not need to sit an aptitude test as their audit qualification is recognised by professional bodies that are recognised in both the UK and Republic of Ireland. The only Republic of Ireland auditors that will need to sit an aptitude test are those that are qualified as members of CPA Ireland. Like EEA auditors they need to submit their applications to sit the aptitude test (and complete it successfully) by 31 December 2020.

Who these changes affect:

- EEA auditors who have registered with the UK recognised supervisory bodies.
- EEA auditors who want to practise in the UK after exit day, including Republic of Ireland auditors that are qualified as members of CPA Ireland.

What you need to do:

- If you have an existing registration with a UK recognised supervisory body you do not need to do anything.

- If you want to practise in the UK in the future and are not already registered with a UK recognised supervisory body, you will have until 31 December 2020 to become a UK statutory auditor by beginning an aptitude test process.

Firm ownership

All EEA auditors, including from the Republic of Ireland, will continue to be eligible to be included in a UK firm's required majorities of owners and managers, though EEA audit firms will not be counted in these majorities from 1 January 2021. This will not affect a Republic of Ireland audit firm that is also a UK registered audit firm.

Who these changes affect:

- EEA auditors and firms.

What you need to do:

- EEA auditors do not need to do anything, and UK firms have until 1 January 2021 to consider whether they need to take account of the place of EEA firms in their majorities and decide if any restructuring is required. This will not be needed if the EEA firm is a Republic of Ireland firm that also has a UK registration.

Audit Committees

All UK Public Interest Entities ("PIEs" - banks, building societies, insurers or issuers of shares or debt securities that are admitted to trading on UK regulated markets) will continue to be subject to the requirements in the Disclosure and Transparency Rules issued by the Financial Conduct Authority (FCA), and other rules issued by the Prudential Regulation Authority (PRA), for an audit committee. This requirement originated from the Audit Directive but will continue to apply to Public Interest Entities subject to an important change:

- The current exemption for those businesses with a parent that is also subject to the same requirement will continue to apply but only where the parent is incorporated in the UK. For subsidiaries that are issuers of securities on UK regulated markets the parent may be subject either to the FCA's or the PRA's rules. However, for those subsidiaries that are banks or insurers and qualify under the more limited exemption provided by the PRA, the parent must be subject to the PRA's rules.

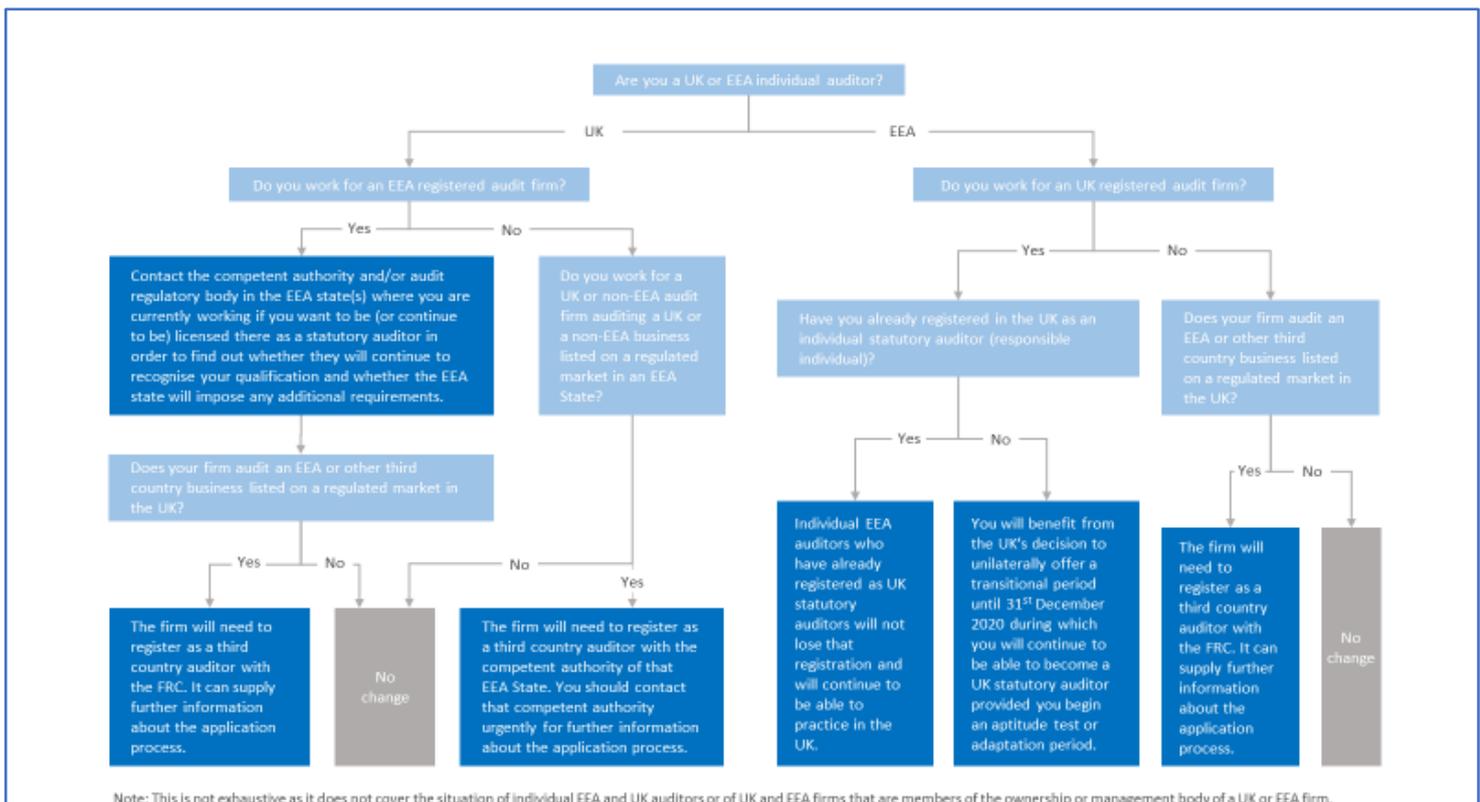
Who these changes affect:

- UK Public Interest Entities with an EEA parent.

What you need to do:

- UK PIEs that have claimed an exemption from the DTRs before exit day because they have an EEA parent will no longer be able to do so.

‘Decision tree to help guide UK and EEA auditors and firms.’



Annex A- Additional Information

Statutory Instruments

The European Economic Interest Grouping (Amendment) (EU Exit) Regulations 2018

Link to Statutory Instrument:

<https://www.legislation.gov.uk/uksi/2018/1299/contents/made>

Link to Explanatory Memorandum:

https://www.legislation.gov.uk/uksi/2018/1299/pdfs/uksiem_20181299_en.pdf

The European Public Limited-Liability Company (Amendment etc) (EU Exit) Regulations 2018

Link to Statutory Instrument:

<http://www.legislation.gov.uk/uksi/2018/1298/contents/made>

Link to Explanatory Memorandum:

http://www.legislation.gov.uk/uksi/2018/1298/pdfs/uksiem_20181298_en.pdf

The Accounts and Reports (Amendment) (EU Exit) Regulations 2019

Link to Statutory Instrument:

<http://www.legislation.gov.uk/uksi/2019/145/contents/made>

Link to Explanatory Memorandum:

http://www.legislation.gov.uk/uksi/2019/145/pdfs/uksiem_20190145_en.pdf

The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019

Link to Statutory Instrument:

<http://www.legislation.gov.uk/uksi/2019/177/contents/made>

Link to Explanatory Memorandum:

http://www.legislation.gov.uk/uksi/2019/177/pdfs/uksiem_20190177_en.pdf

The Companies, Limited Liability Partnerships and Partnerships (Amendment etc) (EU Exit) Regulations 2019

Link to Statutory Instrument:

<http://www.legislation.gov.uk/uksi/2019/348/contents/made>

Link to Explanatory Memorandum:

http://www.legislation.gov.uk/uksi/2019/348/pdfs/uksiem_20190348_en.pdf

International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019

Link to Statutory Instrument:

<https://www.legislation.gov.uk/uksi/2019/685/contents/made>

Link to Explanatory Memorandum:

https://www.legislation.gov.uk/uksi/2019/685/pdfs/uksiem_20190685_en.pdf

The Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019

Link to Statutory Instrument:

<http://www.legislation.gov.uk/ukdsi/2019/9780111188644/contents>

Link to Explanatory Memorandum:

http://www.legislation.gov.uk/ukdsi/2019/9780111188644/pdfs/ukdsiem_9780111188644_en.pdf

Guidance

<https://www.gov.uk/guidance/accounting-if-theres-no-brexiteal>

<https://www.gov.uk/guidance/auditing-if-theres-no-brexiteal>

<https://www.gov.uk/guidance/structuring-your-business-if-theres-a-no-deal-brexiteal>

<https://www.gov.uk/guidance/changing-your-company-registration-if-the-uk-leaves-the-eu-without-a-deal>

<https://www.gov.uk/guidance/changes-to-companies-house-forms-in-the-event-of-a-no-deal-brexiteal>

Companies House Guidance

The below guidance will be updated with relevant EU Exit changes after Exit Day.

Companies House Fees

<https://www.gov.uk/government/publications/companies-house-fees>

Filing Company Accounts

<https://www.gov.uk/government/publications/life-of-a-company-annual-requirements>

Liquidation and insolvency

<https://www.gov.uk/government/publications/liquidation-and-insolvency>

Overseas companies

<https://www.gov.uk/government/publications/overseas-companies-in-the-uk-registration-filing-and-disclosure-obligations>

EEIG/UK EIG

<https://www.gov.uk/government/publications/european-economic-interest-groupings-eeigs>

SE/UK Societas

<https://www.gov.uk/government/publications/european-companies-in-the-uk-registration-and-administration>

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