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LONDON SOCIETY
OF CHARTERED
ACCOUNTANTS

7 December 2015

Regulation and Ethics Review Panel

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Dear Paul,

AUDITOR REGULATION: CONSULTATION ON THE TECHNICAL LEGISLATIVE IMPLEMENTATION OF THE EU AUDIT DIRECTIVE AND REGULATION

I am writing as Chairman of the Regulation and Ethics Review Panel (RERP) of the London Society of Chartered Accountants (LSCA). The LSCA is by far the largest of the 22 district societies affiliated to the Institute of Chartered Accountants in England and Wales (ICAEW). It has a membership of 34,000, representing nearly one quarter of all ICAEW members, and also provides services to other ICAEW members who live or work in London. London members, like those of the Institute as a whole, comprise a mixture of those working in all sizes of practice and those working in businesses, both large and small, or otherwise not in practice. They also include many of the ablest and most senior Chartered Accountants, together with a wide range of specialists.

RERP welcomes the opportunity to comment briefly on this discussion document. We have seen a draft of the ICAEW representation and endorse this in full. The focus of RERP is on the ethical and regulatory aspects of proposals as they affect auditors rather than on more technical issues and this is reflected in our comments below.

We support broadly the approach taken to the draft implementing regulations although we do have some specific concerns which we touch on below.

We agree with the decision to restrict the definition of a Public Interest Entity (PIE) to that included in the Directive.

We note that the Financial Reporting Council (FRC) is to be the single competent authority within the United Kingdom with ultimate responsibility for the regulatory tasks set out in the EU Audit Regulation and the 2006 Directive. We can see the sense of this but are also keen that there remain a real and substantive role for the RSBs within the new regime and that the FRC should not use its powers of delegation and reclamation in an arbitrary manner.

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We also understand that the FRC may need to amend its constitution and governance procedures to comply with the requirements of the Regulation.

We note the view of the ICAEW that the statement in paragraph 6.5 of the consultation that any investigations and sanctions relating to PIE audits would have to be conducted by the FRC is incorrect. This would potentially place an intolerable burden on the FRC and we would hope that some delegation of such tasks to the RSBs would be able to occur. We note in this regard that the Government has indicated that legislation would require the FRC to delegate regulatory tasks so far as is possible to existing RSBs. We share the ICAEW's concern that the current drafting of the statutory instrument only requires the FRC to consider such delegation.

We also share the view of the ICAEW that there should be a more certain mechanism for exercising the legislative intent of the Government than relying on the power of the Secretary of State to give directions to the FRC; if, however, this path is pursued, there should be certain safeguards to prevent substantive changes being made without full public consultation.

The FRC can reclaim tasks that it has previously decided to delegate to the RSBs. The first stated reason in the draft statutory instrument is because matters relating to the engagement raise or appear to raise important issues affecting the public interest. We agree with the ICAEW that this is a somewhat loose definition. Any attempt to invoke or define the public interest in a particular case is invariably fraught with difficulty. We support the ICAEW's view that more specific justification should be given in the ministerial direction. We also support the view that the RSBs should have a right to refer the matter to the minister where a task has not been delegated to, or has been reclaimed from, an RSB on the grounds that the FRC considers that the RSB is unable to carry out the task.

We also support the ICAEW's view that all matters related to statutory audits, except those expressly cited in the Regulation, should be delegated to the RSBs. We would support the ICAEW's request for clarification that an RSB may continue to conduct whole firm procedures on statutory auditors and detailed inspection work on the statutory audits of PIEs under a contracting arrangement with the FRC, reserving to it only those matters specified in the Regulation.

We share the ICAEW's concerns about the powers given to the FRC re the recognition of statutory auditors from another member state which do not seem to have been addressed, including the power to decide whether an aptitude test or an adaptation period should be required.

We support the approach taken to determining the length of audit engagements and to audit tendering and note the ability to extend the maximum period in exceptional cases. The discussion on transitional periods is also helpful.

We note your conclusion that the costs and benefits of the measures in the new Directive affecting audits of non-PIEs would be negligible. We have expressed in our response to the FRC our deep concern about any attempts to restrict further the ability of auditors to provide a wide range of tax services to their non-PIE clients. We believe that the cost to companies of having to change their arrangements in this area could prove substantial and achieve little in terms of ensuring the integrity of the audit.

Please do not hesitate to contact me, if you have any queries or wish to discuss any of these matters further.

Yours sincerely

Bruce Picking