



PRACTICE INFORMATION Handbook

Contents

Introduction	4
1 The practising certificate	6
Who requires a practising certificate?	6
What is public practice?	6
What is not considered to be public practice?	7
How to obtain a practising certificate	7
Ongoing conditions for holding a practising certificate	8
Other useful information	9
2 The audit qualification and firm's auditing certificate	11
The individual's practising certificate and audit qualification	11
How to obtain the practising certificate and audit qualification	11
The firm's auditing certificate	13
Ongoing conditions for holding a practising certificate and audit qualification and firm's auditing certificate	14
Other useful information	15
3 Registering for investment business in the UK	17
Introduction	17
Eligibility criteria	17
Incidental manner	18
Pecuniary reward	18
What activities can firms undertake?	19
Conduct of business regulations	19
Overseas branches or offices and jurisdictions	21
Appendix 1: Exempt regulated activities	22
Appendix 2: Regulation 4(2) of the DPBRs	23
Appendix 3: Regulation 4(3) of the DPBRs	23
Appendix 4: Regulation 4(4) of the DPBRs	24

4 Applying for a firm’s investment business certificate (Ireland)	25
Introduction	25
Do you need an investment business certificate (Ireland)?	25
Investment business services covered by the IIA/investment advice	26
Conditions for the issue of an investment business certificate (Ireland)	26
Guide to the provision of investment business services and investment advice and compliance with the ACCA Irish Investment Business Regulations	28
Application to Northern Ireland and the UK	29
Fees	29
5 Applying for an insolvency licence	30
Who requires an ACCA insolvency licence?	30
Global Practising Regulations	30
Eligibility for an insolvency licence	30
Eligibility of non-members for an insolvency licence	31
Relevant insolvency experience	31
Ongoing conditions for holding an insolvency licence	32
Other useful information	33
Appendix 1: Applying for an insolvency licence	35

Introduction

The *Practice Information Handbook* is intended to provide guidance to members (based on legislation and the regulations and rules of ACCA), and particularly to those members that are new to practice or contemplating setting up in practice in the future. It acts as a single, helpful point of reference.

This handbook has no regulatory status. It is issued for guidance purposes only, and in the event of any conflict between the content of this handbook and the content of the *ACCA Rulebook*, the latter shall at all times take precedence. Therefore, this handbook should not be regarded by a member as a substitute for familiarising himself or herself with the appropriate regulations or, where necessary, obtaining specific advice concerning a specific situation.

Some of the regulations referred to in this publication are specific to the UK, Ireland, another designated territory, Cyprus, Zimbabwe or Australia. However, unless otherwise stated, the content has been designed to apply to practitioners globally. Nevertheless, practitioners should always have regard to local legislation which, for reasons of practicality, may not be discussed in this handbook.

Relevant application forms can be found on ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation at the address below.

THE ACCA RULEBOOK

Information in this handbook refers to ACCA's Regulations and Code of Ethics and Conduct which can be found in the *ACCA Rulebook*, which is automatically circulated to ACCA practising certificate and insolvency licence holders on CD-ROM. The *ACCA Rulebook* can be accessed via the ACCA website at www.accaglobal.com/members/professional_standards.

Alternatively, to obtain a copy, please contact *ACCA Connect*:

Tel: +44 (0)141 582 2000

Fax: +44 (0)141 582 2222

Email: publications@accaglobal.com

APPLYING FOR YOUR FIRST PRACTISING CERTIFICATE

If you wish to apply for your first practising certificate (or practising certificate and audit qualification), you should submit your Practising Certificate Training Record (PCTR) to:

Authorisation
ACCA
2 Central Quay
89 Hydepark Street
Glasgow G3 8BW
United Kingdom.

Your eligibility for a practising certificate (and audit qualification where applicable) will be assessed, and you will be notified of the outcome. You may wish to forward a completed practising certificate application form at the same time, or wait until your PCTR has been approved before submitting your application. More specific details regarding the training records are contained in section 1.

APPLYING FOR A FIRM'S AUDITING CERTIFICATE

A firm which holds, or intends to hold, audit appointments in the UK or Ireland will need to obtain audit registration from a Recognised Supervisory Body in the UK or a Recognised Accountancy Body in Ireland. ACCA is able to register firms in this respect, through the mechanism of an auditing certificate. An application form can be downloaded from the ACCA website, or obtained from Authorisation at ACCA. Details concerning applications for UK or Irish firms' auditing certificates may be found in section 2.

INVESTMENT BUSINESS

Details concerning registering for investment business in the UK and applying for an investment business certificate (Ireland) may be found in sections 3 and 4 respectively.

APPLYING FOR AN INSOLVENCY LICENCE

Details concerning applying for an insolvency licence may be found in section 5.

OTHER INFORMATION

Members are also advised to read the following factsheets, which can be downloaded from ACCA's website at

www.accaglobal.com/members/professional_standards

- Professional indemnity insurance requirements
- Continuity of practice requirements
- Code of Ethics and Conduct
- Control and description requirements
- Obtaining professional work
- Monitoring requirements and global quality assurance
- Disciplinary procedures
- Notification requirements
- Continuing professional development (CPD) for practising members
- Internal complaints handling procedures
- Professional conduct in relation to tax
- Transfer information
- The legal ownership of, and rights of access to, books, files, working papers and other documents
- ACCA's Consumer Credit Group Licence
- Do I need a practicing certificate?

Any further information required should be sought from the appropriate department of ACCA. For advice regarding eligibility for a practicing certificate, insolvency licence, auditing certificate, exempt regulated activities registration or the investment business certificate (Ireland) or completing the application forms, please contact Authorisation on +44 (0)141 534 4175; for advice on legislation, practice or technical issues, please contact Technical Advisory on:

+44 (0)20 7059 5920, or
+353 (0)1 498 8907 (for Ireland only).

1 The practising certificate

The Chartered Certified Accountants' Global Practising Regulations 2003 (GPRs) set out the eligibility criteria for obtaining a practising certificate and detail the continuing obligations placed on practising certificate holders.

WHO REQUIRES A PRACTISING CERTIFICATE?

Any ACCA member performing work under ACCA's definition of public practice or who is a partner/director of a firm which undertakes public practice is required to hold an ACCA practising certificate. ACCA issues:

- a practising certificate, and
- a practising certificate and audit qualification.

This section explains when a practising certificate is required, details of the eligibility requirements and the ongoing conditions for holding the certificate. The differences between a practising certificate and a practising certificate and audit qualification are explained in section 2.

Practising certificates are available to members who meet the eligibility requirements, wherever they are based. ACCA may issue practising certificates and audit qualifications in the UK (including Jersey, Guernsey and Dependencies and the Isle of Man), Ireland, Cyprus and Zimbabwe. In these areas ACCA has either specific legislative responsibility to regulate its members providing audit services or (in the case of Cyprus) has an agreement with the recognised national body or regulatory authority. In other areas, members holding practising certificates may carry out audit or other reserved work where authorised to do so by local law and where they are able to demonstrate such authorisation.

A UK member who engages exclusively in insolvency work may hold an ACCA insolvency licence on a 'stand-alone' basis and need not also hold a practising certificate. However, a member who holds an insolvency licence issued by another Recognised Professional Body or engages in activities other than insolvency and falling within ACCA's definition of public practice (outlined below) will also need to hold an ACCA practising certificate. Further information on obtaining an insolvency licence can be found in section 5.

WHAT IS PUBLIC PRACTICE?

ACCA's definition of public practice is quite widely drawn. Public practice is defined as:

- accepting an appointment as an auditor; and/or
- signing or producing any accounts or report or certificate or tax return concerning any person's financial affairs, whether an individual sole trader, an unincorporated body or a firm, in circumstances where reliance is likely to be placed on such accounts or report or certificate or tax return by any other person (the 'third party'), or doing any other thing which may lead the third party to believe that the accounts or report or certificate or tax return concerning the financial affairs of such a person have been prepared, approved or reviewed by the practitioner; and/or
- holding oneself or itself out, or allowing oneself or itself to be held out, as being available to undertake the activities referred to above (and allowing oneself to be known as a, or a firm of, 'Chartered Certified Accountant(s)', 'Certified Accountant(s)', 'Chartered Accountant(s)', 'Accountant(s)' or 'Auditor(s)' or any similar description or designation standing for any such description in the context of the practitioner's business shall be regarded as an example of such a holding out); and/or
- holding oneself out, or allowing oneself to be held out, as a sole proprietor, partner or director of a firm, or designated member or member of a limited liability partnership, where public practice is carried on.

Although members may not consider themselves to be in public practice, it is easy to stray into areas where the nature of the work is unclear. Some of these areas are discussed in the next section.

WHAT IS NOT CONSIDERED TO BE PUBLIC PRACTICE?

Basic bookkeeping services, for example the preparation of accounting records to trial balance stage and the recording of VAT, and payroll transactions, do not constitute public practice work. A member who is self-employed and only carrying out tasks outside the definition of public practice need not hold a practising certificate, providing his or her firm is not described as a firm of Chartered Certified Accountants (or similar) and his or her business stationery cannot be reasonably understood to be that of a practising Chartered Certified Accountant. (This is 'holding out' as detailed above.)

A member working on the fringes of the definition of public practice will need to carefully assess whether he or she should hold a certificate as a 'protective' measure. This would enable him or her to undertake work within the definition of public practice which may be incidental to his or her regular activities.

Work undertaken on a self-employed basis in the areas of bookkeeping and management consultancy services, where the work will be used solely by the client, would be regarded as being outside the definition of public practice. However, where accounts, reports, certificates or tax returns could be relied upon by a third party (eg a cash flow statement provided to a bank in support of a loan application), a practising certificate is required. Most forms of communication with the tax authorities (even the completion of a tax return which will be signed by the client) or banks/other financial institutions on clients' financial affairs would be regarded as coming within the definition of public practice. ACCA has produced a factsheet entitled 'Do I need a practising certificate?' which outlines the common areas where a practising certificate is required. This can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards. A member who is uncertain as to his or her position should write with full details of the proposed areas of work to Authorisation at ACCA for further guidance.

Honorary public practice work exemption

ACCA recognises that some members may want to help out friends, family or local charities by preparing accounts etc. Therefore, providing the following conditions are met, this 'honorary' work shall not constitute public practice:

- the accounts are of an entity which does not require the appointment of an auditor; and
- no fee is payable or other material benefit receivable in respect of the work performed; and
- the gross income of the entity for the year prior to the year in question does not exceed £100,000; and
- the aggregate of such gross income with such gross income of any other entity in respect of which the member has relied upon this regulation in the calendar year in question does not exceed £200,000; and
- any third parties are made aware that the activity has been carried out by an Honorary Reporting Accountant; and
- the member does not hold himself out, or allow himself to be held out, as a sole proprietor, partner, director, member or designated member of a firm where public practice is carried on.

Council has defined 'material benefit' as amounting to a non-monetary gift worth more than £50 in value. The reimbursement of expenses should relate only to items strictly necessary to the completion of a task.

The honorary public practice exemption exists to allow members to use their skills to make a contribution to their local communities or to assist family, friends and local charities as a favour. It should not be viewed as an entry route into public practice, and it is not acceptable to produce business stationery in connection with such work which purports to be that of a practising firm.

The fact that an assignment has been taken on in an honorary capacity does not exonerate the member from a potential claim for professional negligence. Members undertaking work under this provision are, therefore, advised to carefully assess whether the nature of the work they intend to carry out warrants the holding of professional indemnity insurance cover or undertaking appropriate continuing professional development.

HOW TO OBTAIN A PRACTISING CERTIFICATE

The practising certificate is available to members in all countries. The practising certificate confers the right to undertake general practice work but not work reserved for registered auditors (see above).

To obtain a globally portable practising certificate, members must meet ACCA's practical training requirements and complete a Practising Certificate Training Record (PCTR). However, a member who holds a licence to practise issued by a recognised national body or regulatory authority may apply for an ACCA practising certificate which is valid only in the country where the local licence allows the member to practise. The PCTR and practising certificate application form can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards

To be eligible to obtain a globally portable practising certificate, a member must have been a member of ACCA continuously for a period of not less than two years and must comply with either 1 or 2 below:

- 1 have completed three years' practical training with an ACCA Approved Employer – practising certificate development, under the supervision of a suitably experienced member or another person having, in the opinion of Council, adequate qualification (working as either an employee or sub-contractor), of which at least two years must have been completed after admission to membership. The post-admission to membership training must cover professional conduct, technical (accounting, business advice, development and measurement, taxation, business assurance and internal review) and management. The remaining period may be completed before or after, or partly before and partly after, admission to membership. (Members should record their experience in a PCTR.);

OR

- 2 have previously held an equivalent certificate issued by ACCA.

As stated above, members holding a licence to practise issued by a recognised national body or regulatory authority may apply for an ACCA practising certificate which is valid only in the country where the local licence allows the member to practise. To obtain a practising certificate, a copy of the local licence should be submitted with the completed practising certificate application form.

Details of how to obtain and retain the practising certificate and audit qualification (and details of firms' auditing certificates) may be found in section 2.

ONGOING CONDITIONS FOR HOLDING A PRACTISING CERTIFICATE

Fit and proper status

ACCA will only issue practising certificates to applicants who are 'fit and proper' persons.

In determining whether a person is fit and proper, the Admissions and Licensing Committee will look at any matter which relates to the person, including whether the person is or has been (for countries outside the UK, references to the legislation shall be deemed to refer to the corresponding legislation of the country in question):

- convicted of a criminal offence
- at any time bankrupt, signed a trust deed for creditors or entered into a deed of arrangement, scheme or composition in respect of his/her financial affairs (or any similar or analogous event)
- the subject of a bankruptcy restriction order or bankruptcy restriction undertaking under the Insolvency Act 1986
- removed from the office of liquidator, trustee, administrative receiver, administrator or supervisor
- the subject of a disqualification order or disqualification undertaking made under the Company Directors Disqualification Act 1986
- excluded from or refused membership of a professional body on disciplinary grounds
- found to have failed to ensure that the experience and competence of his/her employees and practice associates are adequate, having regard to the nature of the work involved
- a patient under the Mental Health Act 1983
- the subject of a disciplinary order made by ACCA or another professional body
- the subject of an investigation, whether criminal, disciplinary or otherwise, in respect of his/her conduct
- in breach of an applicable regulation of ACCA
- found to have given ACCA false, inaccurate or misleading information or failed to co-operate with ACCA.

The Admissions and Licensing Committee may also take into account any matter relating to any person who is or will be employed by the applicant or who is or will be in partnership/directorship with the applicant in connection with public practice, insolvency work, exempt regulated activities or investment business.

Professional indemnity insurance

Holders of practising certificates must hold professional indemnity insurance (PII). In the case of a person who employs full and/or part-time staff, fidelity guarantee insurance (FGI) must be held in respect of all partners, directors and employees. Members ceasing to practise must make arrangements for the continued existence of PII and, if applicable, FGI for a period of six years.

Responsibility for obtaining adequate cover lies with an individual member and may be effected with any reputable insurance company or underwriter. Further information on PII, including details of the limit of indemnity and a list of brokers, can be found in a separate factsheet entitled 'Professional indemnity insurance requirements' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Continuity of practice

A holder of any practising certificate who is carrying on public practice must enter into and keep in force for all the period during which a practising certificate is held a written agreement with another individual or firm (or a plurality of them) – the 'nominee'. For partners/directors, this agreement may be made with another equivalent level practising certificate holder within the practice. This provides for the nominee to be responsible for the individual's practice in the event of death or incapacity.

Continuity can be assured by entering into a continuity agreement or, in the case of incorporated firms, by making provision for it in the articles of association. The nominee must be based in the same country as the individual and be authorised to carry on all of the individual's work (ie have the same types of authorisation). Where the individual practises in more than one country, separate nominees must be appointed accordingly.

The name and address of the individual or firm responsible for continuity must be given on the practising certificate application form. It is mandatory that a written agreement be made and this may be inspected by ACCA. Further information on continuity of practice can be found in a separate factsheet entitled 'Continuity of practice requirements' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Notification

Information on notifiable events and the time requirements for notification (some changes must be notified 28 days in advance) can be found in a separate factsheet entitled 'Notification requirements' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Continuing professional development

All members are required to undertake continuing professional development (CPD), in accordance with Membership Regulation 4(4). There are four alternative routes to obtaining satisfactory CPD. These are explained on ACCA's website at www.accaglobal.com/members/cpd

Most members in practice will follow the unit route, and are required to undertake a minimum of 40 units of relevant CPD each year, of which 21 units should be verifiable CPD.

Practising members should be able to demonstrate that they have maintained competence in the specialised areas of their practice.

Further information on CPD can be found in a separate factsheet entitled 'Continuing professional development (CPD) for practising members' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Conduct

Holders of ACCA practising certificates must comply with ACCA's Code of Ethics and Conduct. A separate factsheet entitled 'Code of Ethics and Conduct' can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Monitoring, quality assurance and compliance

Practising certificate holders must co-operate with ACCA in its monitoring and enforcement of compliance with the bye-laws and regulations. ACCA will monitor and enforce its bye-laws and regulations by analysing practitioners' annual returns and carrying out monitoring visits.

Further information on monitoring can be found in a separate factsheet entitled 'Monitoring requirements and global quality assurance' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

OTHER USEFUL INFORMATION

Renewal of practising certificates

All practising certificates are annually renewable. Practising certificates for the UK, Ireland, Jersey, Guernsey and Dependencies and the Isle of Man are valid only until 31 December in the year of issue. Renewal notifications for these practising certificates are usually sent in September of each year. Practising certificates for all other countries are valid until 30 June following the date of issue. Renewal notifications for these certificates are usually sent in March of each year.

Spare-time certificates

A member is regarded as being in spare-time practice if he or she holds a practising certificate while employed in industry, commerce, public service or employed (as opposed to being a principal) in a practice. The experience requirements for obtaining spare-time practising certificates are exactly the same as for fulltime certificates.

Generally, the holder of a spare-time certificate will be required to comply with the above in order to retain their certificate. There is a reduced annual fee, in the UK and Ireland, where practice income does not exceed £5,000 per annum. (In other countries, there is no fee for a full practising certificate in any event.)

ACCA holds on file details of a member's residential and business addresses and that of the spare-time practice if it constitutes a third address. It is essential when reporting changes in business details or addresses that it is clear which address is to be amended.

Transferring from a practising certificate to a practising certificate and audit qualification

In respect of the UK and Ireland, it is possible to transfer from a practising certificate to a practising certificate and audit qualification provided the individual meets the eligibility requirements (ie obtains the necessary supervised audit experience with an ACCA Approved Employer – practising certificate development (audit)). Further information relating to the practising certificate and audit qualification may be found in section 2.

UK Consumer Credit Act 1974 – UK

In the UK, the Office of Fair Trading has, under the Consumer Credit Act 1974, granted ACCA a Group Licence. The Group Licence covers members' professional activities in consumer credit, credit brokerage, debt adjusting, debt counselling, debt administration and provision of credit information services (including credit repair). The cover afforded by the Group Licence is limited to licensable activities set out above arising in the course of a member's normal business. Members whose licensable activities are a primary activity will not be covered by the Group Licence and will need to obtain their own Standard Licence from the Office of Fair Trading.

The Group Licence automatically covers sole practitioners, partnerships and companies where the sole practitioner/partners/directors hold ACCA practising certificates or insolvency licences or the practice is registered to carry out audit work by ACCA or is permitted to describe itself as Chartered Certified Accountants or Authorised Public Accountants. (Cover under the Group Licence is provided at no additional charge to these practitioners/firms.) Any other firm undertaking work requiring a licence, or a firm eligible to be covered by the Group Licence but undertaking work outside the scope of the Group Licence, must obtain a separate licence from the Office of Fair Trading. A separate factsheet regarding the Consumer Credit Act can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Money laundering – UK

Anti-money laundering

Holders of practising certificates are required to comply with the requirements of relevant money laundering legislation and regulation, including specifically that:

- their practice has a nominated officer to take responsibility for compliance
- there are procedures in place to gather and retain evidence of the identification of all clients
- principals and staff in their practice receive appropriate training
- ongoing compliance monitoring is carried out, and
- suspicions of money laundering are reported as required by law.

In the UK, any person who provides audit, insolvency, tax, accountancy or trust and company services must be supervised by a recognised supervisory authority under the Money Laundering Regulations 2007 (employees do not require supervision). Further guidance is available on ACCA's website at www2.accaglobal.com/pubs/members/publications/technical_factsheets/downloads/145.pdf

Members who provide accountancy services within the terms of the Money Laundering Regulations 2007 by way of business which fall outside the meaning described by regulation 4 of the Global Practising Regulations (for example book-keeping) will be subject to supervision for compliance with the anti-money laundering provisions under the Money Laundering Regulations 2007. In such cases, eligible members should consider obtaining a practising certificate from the Association in order to be supervised by the Association. Alternatively, members must register with HM Revenue and Customs or another body recognised for such purposes.

If your firm is controlled by ACCA members (ie at least half of the partners/directors are members of ACCA and the ACCA partners/directors control at least 51% of the voting rights) or holds an auditing certificate from ACCA you/your firm are automatically supervised by ACCA. If your firm does not meet these requirements you will need to be supervised by another recognised supervisory authority, such as HMRC. A flow chart to help you determine whether or not you are supervised by ACCA can be found on ACCA's website at www.accaglobal.com/documents/NMLR_flowchart.pdf

Registering for investment business in the UK

ACCA is a Designated Professional Body (DPB) under the Financial Services and Markets Act 2000. This enables member firms to carry out a limited range of regulated activities, without having to obtain direct authorisation from the Financial Services Authority (FSA), provided those activities are 'incidental' to the core accounting, auditing, taxation and business advice activities of the firm. This limited range of regulated activities is known as exempt regulated activities. The scope of the exempt regulated activities and the application process are set out in section 3. An application form can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or obtained from Authorisation at ACCA.

Any ACCA firm carrying out, or planning to carry out, a regulated activity (other than an exempt regulated activity) will require direct FSA authorisation.

Applying for a firm's investment business certificate (Ireland)

A firm in Ireland wishing to undertake activities within the scope of the Irish Investment Intermediaries Act 1995 must be appropriately authorised by an Approved Professional Body (APB). ACCA is able to authorise firms through the mechanism of an investment business certificate (Ireland). An application form for applying for an investment business certificate (Ireland) can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or obtained from Authorisation at ACCA. Investment business certificates (Ireland) can only be issued to firms controlled by holders of ACCA practising certificates or the equivalent issued by other APBs. Further information can be found in section 4.

PRACTISING CERTIFICATE FEES – 2012

UK, Ireland, Jersey, Guernsey and Dependencies and the Isle of Man:

Practising certificate – full-time £393

Practising certificate – spare-time, where practice income is less than £5,000 per annum £83

Practising certificate and audit qualification – spare and full-time £393

Other countries:

All categories – free of charge.

2 The audit qualification and firm's auditing certificate

The Chartered Certified Accountants' Global Practising Regulations 2003 (GPRs) and Annexes set out the eligibility criteria for obtaining a practising certificate and audit qualification, and detail the continuing obligations placed on holders of the audit qualification. They also lay down the conditions for the issue of, and the ongoing requirements for holding, firms' auditing certificates.

THE INDIVIDUAL'S PRACTISING CERTIFICATE AND AUDIT QUALIFICATION

The practising certificate and audit qualification is available only to members in the UK (including Jersey, Guernsey and Dependencies and the Isle of Man), Ireland, Cyprus and Zimbabwe. Members who intend to undertake audit work in the UK must apply for a practising certificate and audit qualification for the UK and members who intend to undertake audit work in Ireland must apply for a practising certificate and audit qualification for Ireland. (In the UK and Ireland, if audits are to be undertaken, a firm's auditing certificate must also be held.) Before applying for the audit qualification, members are required to record their experience in a Practising Certificate Training Record (PCTR), copies of which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards. The subsequent steps in obtaining the audit qualification are set out below.

HOW TO OBTAIN THE PRACTISING CERTIFICATE AND AUDIT QUALIFICATION

To obtain the practising certificate and audit qualification in the UK (see below for Ireland, Jersey, Guernsey and Dependencies, the Isle of Man, Cyprus and Zimbabwe), the individual must:

- obtain ACCA's recognised professional qualification (see below); or
- have the right to practise the profession of company auditor pursuant to the European Communities (Recognition of

Professional Qualifications) (First General System) Regulations 2005 (S.I. 2005/18) (subject to any requirements imposed on him or her by ACCA); or

- have an overseas qualification approved by the UK Secretary of State under section 1221 of the Companies Act 2006 and have passed ACCA's aptitude test (if applicable); or
- have previously held an equivalent certificate issued by ACCA*.

Ireland

To obtain the practising certificate and audit qualification in Ireland the individual must:

- obtain ACCA's recognised professional qualification (see below); or
- meet the conditions as a statutory auditor in accordance with regulation 24 of the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 of the Republic of Ireland and have passed an aptitude test (if applicable)
- be a third country auditor and meet the conditions as a statutory auditor in accordance with Regulation 24 of the European Communities (Statutory Audits)(Directive 2006/43/EC) Regulations 2010 of the Republic of Ireland and have passed an aptitude test (if applicable); or
- have previously held an equivalent certificate issued by ACCA*.

* if the certificate was held more than two years prior to the application for a practising certificate and audit qualification, members will be required to provide details of audit experience and audit-related CPD achieved in the previous two years, before a practising certificate and audit qualification can be awarded.

Recognised professional qualification

To obtain the recognised professional qualification a member must have completed three years of practical training in a public practice with an ACCA Approved Employer – practising certificate development (audit), working either as an employee or sub-contractor, two years of which must be post-membership.

(Training obtained in a practice with ‘approved’ status granted by another Recognised Qualifying Body under the UK Companies Act 2006 or Irish Companies Act 1990 will not count unless the practice has also been registered and accepted by ACCA.)

The training must cover: audit, professional conduct, technical (accounting, business advice, development and measurement, taxation, and business assurance and internal review) and management. At least 44 weeks of training must be in audit work. This should include at least 22 weeks specifically in statutory audit.

Members whose audit experience was achieved more than two years prior to their application for a practising certificate and audit qualification will need to provide details of audit experience and audit-related CPD achieved in the previous two years, before a practising certificate and audit qualification can be awarded. Audit experience obtained more than two years previously may meet the practical training requirements outlined above, but ACCA also needs to be satisfied that members’ audit knowledge is up to date, and that they remain competent to do audit work, before granting a practising certificate and audit qualification.

Members may choose to simply ‘bank’ their experience, and not apply for a practising certificate and audit qualification straight away. However, if they decide to apply in the future and their audit experience is more than two years old at the point of their application, they will need to demonstrate how they have remained competent to do audit work.

At least two years of training must be obtained under the supervision of:

- i a member holding a practising certificate and audit qualification; or
- ii any other person having, in the opinion of Council, adequate qualifications and experience and who is a fully qualified statutory auditor under paragraph 9(4) of Schedule 11 to the Companies Act 2006 of the UK, such as statutory auditors practising in EEA states, subject to the relevant authorisations (or equivalent persons in relation to applicants for certificates relating to countries other than the United Kingdom).

In addition, members must have completed the UK or Irish variants of the following ACCA examinations:

- Paper P7, *Advanced Audit and Assurance* (or Paper 10, *Accounting and Audit Practice* or 3.1, *Audit and Assurance Services* under previous examination syllabi)
- The tax and law variants of the jurisdiction to which the audit qualification applies.
- The adapted Paper P2, *Corporate Reporting*, if this paper was completed on or after 1 January 2011.

(NB CIPFA members (unless they have completed the papers specified within CIPFA's professional accountancy qualification to be eligible for its audit qualification) admitted to ACCA membership under Membership Regulation 3(e), must complete these examination papers.)

Students who are awarded exemptions from all papers in the Fundamentals level of the syllabus are required to complete the Professional level within five years should they wish to subsequently apply for a UK or Irish practising certificate and audit qualification. Similarly, students in the UK who are eligible for exemption from all or part of the Fundamentals level on the basis of qualifications gained more than five years previously (at the date of initial registration as an ACCA student) will forfeit these exemptions and be required to complete the Fundamentals level exams.

Jersey, Guernsey and Dependencies and the Isle of Man

The requirements for a member wishing to obtain a practising certificate and audit qualification specifically for Jersey, Guernsey and Dependencies and the Isle of Man are:

- to have been an ACCA member for a period of at least two years;
- to have completed three years’ practical training in a public practice with an ACCA Approved Employer – practising certificate development (audit), working either as an employee or sub-contractor, under the supervision of:
 - i a member holding a practising certificate and audit qualification; or
 - ii any other person having in the opinion of Council adequate qualifications and experience and who is a fully qualified statutory auditor under paragraph 9(4) of Schedule 11 to the Companies Act 2006 of the UK;

Training must cover: audit, professional conduct, technical (accounting, business advice, development and measurement, taxation, and business assurance and internal review) and management.

Cyprus

The requirements for a member wishing to obtain a practising certificate and audit qualification specifically for Cyprus are:

- to have been an ACCA member for a period of at least two years; and to have completed three years of training in public practice with an ACCA Approved Employer – practising certificate development (audit), under the supervision of an appropriately qualified principal, two years of which shall have been obtained after admission to membership, save that the training in audit may be completed at any time in the three years; or
 - to have previously held an equivalent certificate issued by ACCA*.
- * if the certificate was held more than two years prior to the application for a practising certificate and audit qualification, members will be required to provide details of audit experience and audit-related CPD achieved in the previous two years, before a practising certificate and audit qualification can be awarded.

Additionally, members must also satisfy any other qualification requirements in accordance with the law of Cyprus.

The training must consist of experience in all of the following: audit, professional conduct, technical (accountancy, business advice, development and measurement, taxation, and business assurance and internal review) and management.

Zimbabwe

The requirements for a member wishing to obtain a practising certificate and audit qualification specifically for Zimbabwe are:

- to have completed three years of training in public practice with an ACCA Approved Employer – practising certificate development (audit), under the supervision of an appropriately qualified principal (or five years in the case of an applicant who is not a holder of a university degree); or
- to have previously held an equivalent certificate issued by ACCA.

The training must consist of experience in audit, accounting and taxation. (NB Holders of a practising certificate and audit qualification in Zimbabwe may apply to the Public Accountants and Auditors Board for registration as a public auditor or public accountant in Zimbabwe.)

Transferring from a practising certificate to a practising certificate and audit qualification

In respect of the UK and Ireland, it is possible to transfer from a practising certificate to a practising certificate and audit qualification provided the individual meets the eligibility requirements (ie obtains the necessary supervised audit experience in an ACCA Approved Employer – practising certificate development (audit)).

It is not, generally, possible to transfer a practising certificate and audit qualification between countries.

THE FIRM'S AUDITING CERTIFICATE

A firm in the UK or Republic of Ireland (being a partnership, company, limited liability partnership* or even a sole practitioner) that holds, or intends to hold, audit appointments will need to obtain audit registration from a Recognised Supervisory Body (RSB) in the UK or, in the Republic of Ireland, a Recognised Accountancy Body (RAB). ACCA is able to register firms in this regard through the mechanism of a firm's auditing certificate. An application form can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or obtained from Authorisation at ACCA.

* Limited liability partnerships do not exist in the Republic of Ireland but a limited liability partnership in the UK may apply for a firm's auditing certificate for the Republic of Ireland.

Applying for a firm's auditing certificate

The GPRs provide the basis for ACCA's compliance with the provisions relating to the registration of auditors in the Companies Act 2006 and the Irish Companies Act 1990 and Regulation 24 of the European Communities (Statutory Audits)(Directive 2006/43/EC) Regulations 2010. The GPRs are published in the ACCA *Rulebook*. The legislation permits audit appointments to be held in the names of firms (sole proprietorships and

partnerships) and incorporated firms (limited companies and, in the UK, limited liability partnerships), rather than in the names of individual partners/directors/members within those firms. Firms wishing to act as registered auditors must obtain audit registration from an RSB or RAB, such as ACCA. ACCA is able to grant registered auditor status by means of the issue of firms' auditing certificates.

Firms must make separate applications for UK and Irish auditing certificates.

Control qualifications necessary for an auditing certificate to be granted

Firms' auditing certificates may be held by any firm controlled by holders of the ACCA practising certificate and audit qualification or equivalent certificates issued by the Institute of Chartered Accountants in England and Wales (ICAEW), the Institute of Chartered Accountants of Scotland (ICAS) and Chartered Accountants Ireland (CAI). This includes sole proprietorships and any partnership or incorporated firm. This is irrespective of whether or not the firm contains any ACCA principals, partners or directors.

ACCA has also established a scheme for firms in the UK controlled by members of the Association of Authorised Public Accountants (AAPA). Such firms should obtain the AAPA scheme documentation, which is available from Authorisation at ACCA or from the ACCA website at www.accaglobal.com/aapa/aapa/forms

ACCA will also consider applications from firms controlled by members of the Institute of Certified Public Accountants in Ireland, but only in respect of authorisation in the Republic of Ireland. Such firms should refer to the remainder of this section as applicable and complete the relevant form.

Eligible firms (ie controlled by ACCA/ICAEW/ICAS/CAI members) may hold firms' auditing certificates for both the UK and Ireland but must complete separate application forms.

Sole practitioners

An ACCA member who holds a practising certificate and audit qualification and who wishes to carry out audit work must, in addition, hold a firm's auditing certificate. This applies even if the sole practice trades in the practising certificate holder's name. Audit work includes the audits of UK or Irish registered companies, other statutorily regulated entities and other assignments requiring a registered auditor. Only a firm (including any sole proprietor practising in their own name) holding a firm's auditing certificate will be able to describe itself as a Registered Auditor(s) and will have its details placed on the Register of Statutory Auditors in the UK, or the register held by the Companies Registration Office in Ireland.

In the case of ACCA sole practitioners, there is no additional form or fee for the firm's auditing certificate. A sole practitioner Chartered Accountant who holds a practising certificate from ICAEW, ICAS or CAI is eligible to apply for an ACCA firm's auditing certificate for his or her firm, and to continue to describe his or her practice as a firm of Chartered Accountants. There is no requirement for them to become a member of ACCA but they may do so if they wish. An application form for direct admission to membership can be downloaded from ACCA's website at www.accaglobal.com/members/admin. The firm's auditing certificate fee in this case is £393 in 2012.

Partnerships, LLPs and incorporated firms

Partnerships, incorporated firms and, in the UK, limited liability partnerships wishing to hold audit appointments must make applications for ACCA firms' auditing certificates (or seek authorisation from another RSB or RAB). However, for a firm composed wholly of partners or directors holding ACCA practising certificates, there is no fee for a firm's auditing certificate.

Mixed firms, composed wholly of Chartered Certified and Chartered Accountant partners or directors, are eligible for ACCA firms' auditing certificates. In this case, the 2012 fee is calculated on the basis of £393 for each non-ACCA partner or director.

Other mixed firms (perhaps containing non-qualified partners or directors) are eligible for ACCA firms' auditing certificates if they are controlled by holders of equivalent qualifications (as detailed above). Control is determined by the distribution of votes within the firm on all material matters, and holders of relevant qualifications must control at least 51% of such votes. (There is no requirement to have an ACCA member as a partner or director of a firm.) Firms controlled by Chartered Accountants may be authorised by ACCA while continuing to describe their practices as 'Chartered Accountants'. Again, the 2012 fee is based on £393 for each partner or director who is not an ACCA member. (Chartered Accountants who are partners or directors in firms with ACCA firms' auditing certificates may, if they wish, apply for direct admission to membership of ACCA. An application form for direct admission can be downloaded from ACCA's website at www.accaglobal.com/members/admin)

Where these requirements are being applied in connection with a limited liability partnership, the reference to a partner or partners should be construed as referring to a member or members of the limited liability partnership.

In the case of a firm's auditing certificate granted to a limited liability partnership or an incorporated firm, there is an additional control requirement – that the majority of votes on its board of directors (or of the members of a limited liability partnership in the UK) must be held by holders of relevant qualifications.

Other conditions necessary for the issue of a firm's auditing certificate

Within each partnership, limited liability partnership or incorporated firm, a nominated contact partner/director will have overall responsibility for the firm's compliance with the conditions detailed below.

Responsibility for audit work – Each of the partners or directors and other persons responsible for the firm's audit work must hold an ACCA practising certificate and audit qualification or an equivalent certificate.

Control – In exercising control, the firm must have in place arrangements to prevent unqualified individuals and persons (whether members of the firm or not) from exerting influence over the way in which audits are conducted.

ONGOING CONDITIONS FOR HOLDING A PRACTISING CERTIFICATE AND AUDIT QUALIFICATION AND FIRM'S AUDITING CERTIFICATE

Fit and proper status

Every partner or director must be a fit and proper person in order that the firm may hold an auditing certificate. ACCA may take into account any matter which relates to any of the partners or directors of the firm or anyone employed by, or associated with it, in connection with public practice, such as failure to cooperate with ACCA or providing false, inaccurate, misleading or incomplete information to ACCA.

There is a list of situations in which a practising certificate holder would fail to meet the fit and proper status requirements set out in section 1. In addition to the above criteria, where the issue of a practising certificate and audit qualification is concerned, the Admissions and Licensing Committee will take into account whether an individual has contravened any provision of law relating to the seeking of an appointment or acting as auditor or insolvency practitioner or to the carrying on of exempt regulated activities or investment business.

Responsibility and control

The control qualifications necessary for an auditing certificate to be granted, set out above, must be maintained throughout the period that the firm holds an auditing certificate. Further details regarding the control of the firm (together with provisions concerning the description of the firm) may be found in a separate factsheet entitled 'Control and description requirements' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Each of the partners or directors responsible for the firm's audit work must continue to hold an ACCA practising certificate and audit qualification or an equivalent certificate. The firm must also maintain its arrangements for ensuring that the independence and integrity of its audit work are not influenced by unqualified individuals.

Professional indemnity insurance

Firms must hold professional indemnity insurance (PII). Cover must also include fidelity guarantee insurance (FGI) in respect of any partners, directors and employees. PII should provide cover in respect of all civil liability incurred in connection with the conduct of the firm's business by the partners, directors or employees, and FGI should include cover against any acts of fraud or dishonesty by any partner, director or employee in respect of money or goods held in trust by the firm. Members ceasing to practise must make arrangements for the continued existence of PII and, where applicable, FGI for a period of six years.

Responsibility for obtaining adequate cover lies with the firm, and may be effected with any reputable insurance company or underwriter. Further information on PII, including details of the limit of indemnity, can be found in a separate factsheet entitled 'Professional indemnity insurance requirements' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Continuity of practice

A firm must provide for continuity of practice. Provision for continuity should be made within the firm's partnership agreement or articles of association, provided at least two partners/directors are registered auditors, or by entering into a written agreement with another firm of registered auditors. (The name and address of another firm responsible for continuity must be given on the application form for an auditing certificate.) It is mandatory that a written agreement be made and this may be inspected by ACCA.

Where the firm practices in both the UK and the Republic of Ireland, continuity arrangements must be made with a firm (or firms) in both countries. Further information on continuity of practice can be found in a separate factsheet entitled 'Continuity of practice requirements' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Notification

In the UK, ACCA is required to supply information to the Register of Statutory Auditors (www.auditregister.org.uk). Each entry in the register will include the name and a business address of the firm. In addition, in the case of incorporated firms, the register will include the name and business address of each person who is a director or holds shares in the firm, and in the case of a partnership (including limited liability partnerships) or sole proprietorship it will include the name(s) and address(es) of the proprietor or partners/members. In Ireland, similar information is supplied to the register held by the Companies Registration Office (www.cro.ie).

In order to enable ACCA to keep this register up to date, firms are required to notify ACCA of a number of different events or changes.

Further information can be found in a separate factsheet entitled 'Notification requirements' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Continuing professional development

All members are required to undertake CPD, in accordance with Membership Regulation 4(4). There are four alternative routes to obtaining satisfactory CPD. These are explained on ACCA's website at www.accaglobal.com/members/cpd

Members following the unit route are required to undertake a minimum of 40 units of relevant CPD each year, of which 21 units should be verifiable CPD. Practising members should be able to demonstrate that they have maintained competence in the specialised areas of their practices.

Further information on CPD can be found in a separate factsheet entitled 'Continuing professional development (CPD) for practising members' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Conduct of public practice

All partners/directors and other persons responsible for audit work must comply with ACCA's Code of Ethics and Conduct, especially in connection with the proper conduct of public practice, integrity and independence. The Code of Ethics and Conduct is available from the *ACCA Rulebook*. A separate factsheet entitled 'Code of Ethics and Conduct' is also available from ACCA's website at www.accaglobal.com/members/professional_standards

Technical standards

All partners/directors and other persons responsible for audit work must comply with ACCA's Technical Standards, and, in particular, firms practising in the UK and the Republic of Ireland must comply with the International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board.

Monitoring

All partners/directors and other persons responsible for audit work must co-operate with ACCA in its monitoring and enforcement of compliance with the bye-laws and regulations.

ACCA will monitor and enforce its bye-laws and regulations by analysing firms' annual returns and carrying out monitoring visits. Monitoring visits will take place normally once every six years, although they may be at more frequent intervals if necessary as a result of complaints or significant changes in a practice. Additional visits or follow up action may also result from a visit which revealed inadequacies.

Further information on monitoring can be found in a separate factsheet entitled 'Monitoring requirements and global quality assurance' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards/monitoring or requested from Authorisation.

Descriptions

A firm holding an ACCA auditing certificate may include the following statement on their business stationery:

'Registered as auditors by the Association of Chartered Certified Accountants'.

Firms may also use the description 'Registered Auditors'.

Further information can be found in a separate factsheet entitled 'Control and description requirements' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

OTHER USEFUL INFORMATION

Useful information about the UK Consumer Credit Act 1974, money laundering and registering for investment business in the UK and Ireland can be found in section 1.

Spare-time certificates

A member is regarded as being in spare-time practice if he or she holds a practising certificate and audit qualification while employed in industry, commerce, public service or employed (as opposed to being a principal) in a practice. The experience

requirements for obtaining a spare-time practising certificate and audit qualification, and the ongoing conditions, are exactly the same as for full-time certificates.

Renewal of a practising certificate and audit qualification
All practising certificates (including the practising certificate and audit qualification) are renewable annually. Practising certificates for the UK and Ireland are valid only until 31 December in the year of issue. Renewal notifications for these practising certificates are usually sent in September of each year. Practising certificates for all other countries are valid until 30 June following the date of issue, and the renewal notifications for these certificates are usually sent in March of each year.

Renewal of firms' auditing certificates

All firms' auditing certificates are valid only until 31 December in the year of issue. All firms' auditing certificates are renewable annually. A firm that ceases to hold a firm's auditing certificate will be eligible to resume holding one providing it meets the fitness and propriety requirements and other ongoing conditions at the time of the subsequent application.

Jurisdiction

The legislation referred to does not extend to the Channel Islands or Isle of Man. Firms' auditing certificates are not, therefore, necessary in these jurisdictions. A firm based outside the UK and Ireland may, if it is eligible, hold a firm's auditing certificate if it wishes to hold UK or Irish audit appointments. In such cases the fees and conditions referred to above remain applicable. However, firms' auditing certificates are not issued where it is proposed to only hold audit appointments of companies registered outside the UK and Ireland.

PRACTISING CERTIFICATE AND AUDIT QUALIFICATION FEES – 2012

The fee for a practising certificate and audit qualification valid in the UK, Ireland, Jersey, Guernsey and Dependencies and the Isle of Man is £393. There is currently no fee levied for a practising certificate and audit qualification in Cyprus or Zimbabwe.

FIRM'S AUDITING CERTIFICATE FEE – 2012

The fee for a firm's auditing certificate is calculated on the basis of £393 for each non-ACCA principal of the firm.

3 Registering for investment business in the UK

ACCA has been granted Designated Professional Body (DPB) status, under the Financial Services and Markets Act 2000, by HM Treasury. DPB status enables ACCA to regulate firms to undertake a limited range of investment activities known as exempt regulated activities.

INTRODUCTION

Firms that may wish to conduct investment business have the option of direct registration with the Financial Services Authority (FSA) in order to carry out mainstream investment business activities. Alternatively, ACCA's Designated Professional Body Regulations 2001 (DPBRs) may apply to those firms that do not (or cannot) obtain direct registration.

ACCA has put in place a simple set of registration arrangements for members and firms who wish to undertake exempt regulated activities. There are no separate fees for firms registering to undertake exempt regulated activities. The application form can be found on ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation (tel: +44 (0)141 534 4175).

The scope of the exempt regulated activities is, to a great extent, specified in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001. This is summarised in ACCA's DPBRs, which are published in the *ACCA Rulebook*.

A sole practitioner's firm or a partnership or incorporated firm that is wholly composed of ACCA partners/members/directors may, in most circumstances*, apply for exempt regulated activities registration by simply completing the application form.

A mixed partnership or mixed incorporated firm will be eligible to apply to be registered by ACCA for exempt regulated activities purposes subject to the firm containing at least one ACCA partner/member/director and the firm being controlled by partners/members/directors who are members of a DPB*. As well as completing the application form, an additional form (PIB (UK)) should be completed by each non-ACCA partner/member/director

on which they are required to give declarations that they will be bound by ACCA regulations as if they were ACCA members. This form can also be found on ACCA's website. At the time of writing, there is no fee for mixed firms holding exempt regulated activities registration through ACCA. However, this is under review, and it is possible that a fee for mixed firms will be introduced in the future which reflects the amount of additional administrative and monitoring work generated by registering mixed firms.

(*Firms which are directly authorised by the FSA for investment business purposes will not be eligible to carry out exempt regulated activities under the DPB arrangements.)

ELIGIBILITY CRITERIA

The DPBRs apply to all members and firms that satisfy the relevant eligibility requirements. They apply to exempt regulated activities carried on in, into or from the United Kingdom. The DPBRs, therefore, apply to Northern Ireland, but not to the Republic of Ireland.

Regulation 3 of the DPBRs sets out the eligibility requirements in detail, and these are summarised below:

Sole practitioners

A sole practitioner will only be eligible to carry on regulated activities where:

- he/she is a member;
- he/she holds a practising certificate; and
- his/her main business is the provision of public practice accountancy services.

Partnerships

A partnership will only be eligible to carry on regulated activities where:

- at least one of the partners in the firm is a member, and each partner who is not a member is entitled to practise accountancy and is subject to the regulations of ACCA;
- the partners who are members of ACCA or of another designated professional body (if any) manage or control the firm; and
- the main business of the partnership is the provision of public practice accountancy services.

Where this regulation is being applied in connection with a limited liability partnership, the reference to partner or partners should be construed as referring to a member or members of the limited liability partnership.

Companies

A company will only be eligible to carry on regulated activities where:

- at least one director and controller is a member, and each director who is not a member is entitled to practise accountancy and is subject to the regulations of ACCA;
- the directors who are members of ACCA or of another designated professional body (if any) manage or control the firm; and
- its main business is the provision of public practice accountancy services.

Renewal of firms' exempt regulated activities registration

All firms' exempt regulated activities registrations are valid only until 31 December in the year of issue and are renewable annually.

THE MEANING OF INCIDENTAL

The regime enables ACCA, as a DPB, to allow its member firms to carry out a limited range of investment business activities, without those firms having to obtain direct authorisation from the FSA, provided these activities are 'incidental' to the core business of accountancy services.

Regulation 3(5) of the DPBRs provides guidance on the factors that firms should consider when assessing whether the investment business activity or activities they are undertaking are 'incidental'. This is a qualitative test rather than a quantitative test. The 20% test that applied under the Investment Business Regulations is, therefore, not relevant.

In order for a firm to qualify as carrying on regulated activities in an incidental manner:

- i the main activity of the firm must be the provision of public practice accountancy services other than regulated activities;
- ii the carrying on of the regulated activities must not be isolated from other activities of the firm so that it is in effect a separate business; and

- iii the firm does not carry on, or hold itself out as carrying on, a regulated activity other than one which is allowed by the DPBRs or in relation to which the firm is an exempt person.

The following additional requirements are relevant in assessing whether the requirement in (ii) above is met:

- i regulated activities should only be provided in conjunction with the professional services of the firm;
- ii the firm should disclose to an existing client or a potential client that the firm is an accountancy firm which may only carry on a limited range of investment business activities;
- iii the firm must not receive from a person other than its client any pecuniary reward or other advantage, for which it does not account to its client, arising out of its carrying on of regulated activities (see below);
- iv the carrying on of regulated activities must be within the scope of the general ethical code or the rules governing the profession; and
- v the firm must not hold out that the exempt regulated activities are carried out on a 'stand-alone' basis separate from the main activity of the firm.

PECUNIARY REWARD

Any pecuniary reward or other advantage from a person other than the client, arising out of carrying on exempt regulated activities, can only be received where the member or firm accounts to the client for that pecuniary reward or other advantage. 'Accounts to the client' means:

- remitting any pecuniary reward or advantage (such as commissions received from product providers) to the client; or
- informing the client of the pecuniary reward or advantage and that he has the right to require the firm to pay the amount concerned to him, thus allowing offsetting of the amount against any fees charged; or
- obtaining the client's informed consent, in writing, that the firm may retain the particular reward or advantage in question.

In securing the consent of the client, the client must be informed clearly of the nature of the pecuniary reward or advantage, including its amount and frequency, and that the client has the right to require the firm to pay the amount concerned to him. Even if the client consents, the client must be informed each time a pecuniary reward or advantage is received (for example, each time a commission is received, be it initial commission or renewal commission), unless the amount and frequency are predetermined (for example, a fixed commission receivable once per month over the term of a life assurance policy).

It is not considered sufficient for firms in, say, the letter of engagement to make a general disclosure regarding the receipt of any pecuniary reward or advantage, or to obtain a client's general consent to the firm's retention of such pecuniary reward or advantage.

WHAT ACTIVITIES CAN FIRMS UNDERTAKE?

The activities that ACCA regulated firms are able to carry out under the DPBRs are set out in regulation 4(1). This regulation is reproduced in full in Appendix 1. ACCA has also produced a question and answer guide which covers the activities firms may undertake. The guide can be downloaded from ACCA's website at www.accaglobal.com/documents/dpbregs.pdf

Prohibited activities

There are a number of activities that cannot be carried out by ACCA regulated firms under the DPBRs because either:

- i the Non-Exempt Activities Order prohibits such activities, or
- ii the DPBRs prohibit such activities.

Therefore, no firm may carry out any activity that falls within the list of prohibited activities set out in regulation 4(2), which is reproduced in Appendix 2 of this section.

Regulated mortgage work and insurance mediation activity

The DPBRs include regulations for firms wishing to undertake regulated mortgage work, long-term care insurance and other insurance mediation activities. These regulations stem from legislation and became effective at different dates, depending on the type of activity concerned:

- Regulated mortgage contracts – 31 October 2004
- Long-term care insurance – 31 October 2004
- Other insurance mediation activities – 14 January 2005
- Regulated home reversion plans and regulated home purchase plans – 6 April 2007

Firms wishing to undertake the above activities should familiarize themselves with the regulations (reproduced in full in Appendix 3). In particular, they should ensure that, before undertaking any insurance mediation work, they:

- i hold professional indemnity insurance at the prescribed level (ie at least €1,120,200 on an each and every claim basis and €1,680,300 in aggregate per year), and
- ii have been placed on the FSA Register.

Please note that referring a client to another adviser is not an insurance mediation activity, and is therefore not subject to the new regulations. Providing more specific information to a client and/or to an intermediary or insurance company is an insurance mediation activity, but is exempt from the increased professional indemnity insurance requirement. (Regulation 4(4) lists the activities that do not constitute insurance mediation activity, and is reproduced in Appendix 4.)

CONDUCT OF BUSINESS REGULATIONS

Chapter 5 of the DPBRs sets out a number of conduct of business matters that firms need to comply with in order to provide exempt regulated activities. This chapter sets out, under regulations 5, 6 and 7, guidance relating to independence, relations with clients, and compliance procedures.

Independence

Inducements

A firm must take reasonable steps to ensure that neither it nor any of its agents offers, gives, solicits or accepts any inducement which is likely significantly to conflict with any duties of the recipient or the recipient's employer owed to clients in connection with the firm's exempt regulated activities.

Material interest

Where a firm has a material interest in a transaction to be entered into with or for a client or a relationship which gives rise to a conflict of interest in relation to such a transaction, the firm must not knowingly advise in relation to that transaction unless it takes reasonable steps to ensure fair treatment for the client.

Arrangements with third parties

A firm must not enter into any soft commission agreement whereunder a firm which deals in securities on an advisory basis receives goods or services in return for an assurance that not less than a certain amount of such business will be put through or in the way of another person.

A firm may only accept an appointment as another person's appointed representative where the appointing organisation is itself, and at all times continues to be, free from any restriction which may result in the firm being constrained or induced to recommend to a client transactions in some investments but not others, with some persons but not others, or through the agency of some persons but not others, unless constrained by law.

A firm may only advise in relation to the disposal of packaged products as an independent intermediary and, for the avoidance of doubt, to the extent such activities constitute exempt regulated activities.

Relations with clients

Fair and clear communications

A firm must avoid any representation to a client that it is authorised under the Act or regulated by the FSA or that the regulatory protections provided by the Act are available. Where a firm is conducting insurance mediation activity, it is particularly important that the client understands that the firm's inclusion on the FSA register is not the same as being authorised under the Act.

A firm may make a communication with another person that is designed to promote the provision of exempt regulated activities only if it can show that it believes on reasonable grounds that the communication is fair and not misleading.

A firm must take reasonable steps to ensure that any agreement, written communication, notification or information that it gives or sends to a client to whom it provides exempt regulated activities is presented fairly and clearly.

A firm must ensure that the client receives sufficient information about the recommended investment so that he has an adequate basis on which to accept or reject the recommendations. The firm must make clear that it will supply the client with more detailed information if he or she so requires.

Clients' rights

A firm must not, in any written communication or agreement, seek to exclude or restrict any duty or liability to a client that it has under the Act, or under the regulatory system.

Similarly, unless it is reasonable to do so in the circumstances, a firm must not, in any written communication or agreement, seek to exclude or restrict:

- any other duty to act with the skill, care and diligence which is owed to a client in connection with the provision to him or her of exempt regulated activities; or
- any liability owed to a client for failure to exercise the degree of skill, care and diligence which may reasonably be expected of it in the provision of exempt regulated activities.

A firm must not seek unreasonably to rely on any provision seeking to exclude or restrict any such duty or liability.

Charges

The amount a firm charges a client for the provision of exempt regulated activities must not be unreasonable in the circumstances.

Client agreements

Where a firm provides exempt regulated activities to a client, the written agreement which must be entered into before any business is conducted must set out in adequate detail the basis on which those services are provided and must include, *inter alia*, a statement of the following:

- 1 the firm's name and address;
- 2 that the firm is regulated in the conduct of exempt regulated activities by ACCA (if a firm makes a reference to the FSA any such statement should not lead the client to suppose that the FSA has direct regulatory responsibility for that firm);
- 3 the nature of the regulated activities provided by the firm and the fact that these are limited in scope and, where appropriate, the fact that the firm is using the services of a permitted third party;
- 4 where the firm provides exempt regulated activities other than insurance mediation activity, that the firm is not an authorised person;
- 5 that the client will not have access to any compensation scheme in respect of the firm's services;
- 6 the client's investment objectives;
- 7 any restrictions on the investments which may be acquired or that there are no restrictions;
- 8 the nature of the complaints and redress procedures available to clients; and
- 9 the basis on which the firm is to charge for its services.

Where the firm provides insurance mediation activity services, the written agreement must also provide the following statement in a way that is clear, fair and not misleading and no less prominent than any other information provided to the client at the same time:

'We are not authorised by the Financial Services Authority. However, we are included on the register maintained by the Financial Services Authority so that we can carry on insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Association of Chartered Certified Accountants. The register can be accessed via the FSA website at www.fsa.gov.uk

The agreement must also state:

- 1 whether the firm has a holding, direct or indirect, representing more than 10% of the voting rights or of the capital in a given insurance undertaking, and
- 2 whether a given insurance undertaking or parent undertaking of a given insurance undertaking has a holding, direct or otherwise, representing more than 10% of the voting rights or of the capital in the firm.

Where a firm acts as a disclosed agent for a named client with or through a permitted third party or relies upon the advice of a permitted third party in acting for or advising a client, the firm must inform the permitted third party in writing of that fact and that accordingly the permitted third party will be responsible to the client in respect of its activities or advice.

Where a firm is treating a client as an execution-only client it must:

- a notify the client accordingly and must obtain a written acknowledgement from the client. In addition, written evidence of specific instructions from execution-only clients must be made, including written confirmation that the client did not seek or receive advice from the firm regarding a transaction. The transaction must have been entered into on the client's explicit instructions; and
- b have reasonably assessed and concluded that the client can be expected to understand the risks involved in the transaction.

Copies of the written notification and acknowledgement and evidence of instructions and assessment referred to in this regulation are required to be retained for six years.

Cessation of business

Where a firm withdraws from providing any exempt regulated activities to clients, the firm must ensure that any such business that is outstanding is properly completed or is transferred to another firm. In addition, where the interests of clients would be significantly affected by the death or incapacity of an individual within the firm, the firm must make arrangements to protect the interests of those clients in that event.

Information about the firm

A firm may, in all its business letters, notices and other publications which relate to its exempt regulated activities, state that it is regulated to conduct exempt regulated activities by ACCA. Any such statement should also comply with the requirements set out above.

Business stationery

ACCA has agreed the following wording with the FSA that firms may use on business letters, notices and other publications:

‘Regulated for a range of investment business activities by the Association of Chartered Certified Accountants’.

This is an optional statement.

Information about contracts of insurance

The DPBRs also include detailed communication requirements in respect of firms carrying on insurance mediation activity, including the method of communicating.

Compliance procedures

Compliance

A firm must take reasonable steps, including the establishment and maintenance of procedures, to ensure that its officers and employees act in conformity with all regulations applicable to the conduct of exempt regulated activities.

Records

A firm must ensure that sufficient information is recorded and retained about its exempt regulated activities as is necessary for the proper conduct of that business and to enable it to demonstrate compliance with the regulatory system, including but not limited to records:

- of the receipt of income from the client in respect of exempt regulated activities;
- of the receipt of commissions, or any other pecuniary reward or advantage, from product providers or any third parties, which are adequate to demonstrate that the firm has accounted to the client for the commissions or other pecuniary reward or advantage;
- which are adequate to demonstrate that the firm has carried on only exempt regulated activities; and
- of complaints received and action taken.

Any record required to be produced by this regulation should be retained for a minimum of six years.

Complaints

A firm must have procedures to ensure:

- the proper handling of complaints from clients and third parties relevant to its compliance with the regulatory system;
- that any appropriate remedial action on those complaints is promptly taken; and
- where the complaint is not promptly remedied, that the client is advised of any further avenue for complaint available to him or her under the regulatory system.

Those procedures must include provisions to ensure that:

- complaints are acknowledged within a reasonable time of their being received and in any event within 14 days;
- where a complaint has been made orally, the letter of acknowledgement states the member’s understanding as to the nature of the complaint being made and invites the complainant to confirm in writing the accuracy of that statement; and

- complaints are investigated by a person of sufficient experience, seniority and competence who, where possible, was not directly involved in the particular act or omission giving rise to the complaint.

Continuity

Firms shall enter into a continuity agreement in accordance with regulation 11 of The Chartered Certified Accountants’ Global Practising Regulations 2003.

Notification

A firm that becomes an authorised person to conduct any regulated activities or becomes an appointed representative of another organisation should notify ACCA immediately in writing of this change of status.

OVERSEAS BRANCHES OR OFFICES AND JURISDICTIONS

The Financial Services and Markets Act 2000 regulates investment business conducted in the UK. Firms which have a branch or office outside the UK, Channel Islands and Isle of Man are eligible to undertake exempt regulated activities from the UK branch or office.

Irish Investment Intermediaries Act 1995

A firm wishing to undertake activities within the scope of the Irish Investment Intermediaries Act 1995 must be appropriately authorised by an Approved Professional Body. ACCA is able to authorise firms through the mechanism of an investment business certificate (Ireland). Please see section 4 for further information.

APPENDIX 1

Exempt regulated activities

The activities that ACCA regulated firms are able to carry out under the DPBRs are set out in regulation 4(1). This regulation is reproduced below.

1 Exempt regulated activities

Subject to regulations 4(2) and 4(3), all firms that are eligible to conduct regulated activities under regulation 3 may carry on, or agree to carry on, any of the activities set out in this regulation (but no other activity constituting regulated activities).

In relation to designated investments, contracts of long-term insurance, contracts of long-term care insurance, regulated mortgage contracts, regulated home reversion plans and regulated home purchase plans, firms may carry on:

- a dealing as agent in investments within article 21 to the Regulated Activities Order:
 - i as disclosed agent for a named client where the transaction is carried out with or through a permitted third party; or
 - ii where the client is an execution-only client except in respect of pension transfer or opt-out business and pension fund withdrawals; or
- b making arrangements within articles 25 (investments deals), 25A (regulated mortgage contracts), 25B (regulated home reversion plans) and 25C (regulated home purchase plans) of the Regulated Activities Order where:
 - i the firm acts as disclosed agent for a named client and the arrangements are carried out with or through a permitted third party; or
 - ii the arrangements are made in consequence of advice given in relation thereto by a permitted third party which if obtained by the firm has been obtained by it acting as disclosed agent for a named client; or
 - iii the client is an execution-only client except in respect of pension transfer or opt-out business and pension fund withdrawals; or
 - iv the arrangements are for the disposal of a packaged product by or for a personal representative; or
 - v the transaction involves the acquisition or disposal of an investment by accepting an offer or responding to an invitation made to the public or to the holders of securities of any body corporate or any class thereof or by exercising any right conferred by an investment to acquire, dispose of or convert an investment; or
- c managing investments within article 37 of the Regulated Activities Order where:
 - i that activity is performed on a non-discretionary basis;
 - ii the firm or an officer or employee of the firm holds a trustee appointment and acts on a discretionary basis; and
 - aa no remuneration is received for the discretionary management of the investments in addition to the remuneration which the firm or the officer or employee of it may receive in connection with their acting pursuant to the trustee appointment; or
 - bb any decisions to buy, sell, subscribe for or underwrite a particular investment are taken in accordance with the advice of a permitted third party which, if obtained by the firm, has been obtained by him or it having disclosed the basis on which he or it is acting; or
- d advising within article 53 (investments), article 53A (regulated mortgage contracts), article 53B (regulated home reversion plans) and article 53C (regulated home purchase plans) of the Regulated Activities Order where:
 - i such advice constitutes the advice of a permitted third party and, if obtained by the firm, has been obtained by it acting as disclosed agent for a named client; or
 - ii in the case of investments the advice does not relate to listed securities; or
 - iii such advice concerns the disposal of a packaged product for a personal representative; or
 - iv such advice constitutes a recommendation not to buy or subscribe for investments, or a recommendation to vary the terms of, not to buy or not to subscribe for regulated mortgage contracts, regulated home reversion plans and regulated home purchase plans, or relates to the disposal of investments other than rights under a personal pension scheme or relates to the acquisition of investments issued by an unquoted company; or
 - v such advice constitutes advice to clients to seek further information or clarification from the authorised person; or
 - vi such advice constitutes advice to clients on the merits of advice given by an appropriately authorised or exempt person provided no recommendation is made that the client purchases a particular investment or regulated mortgage contract, regulated home reversion plans and regulated home purchase plans, other than that recommended by the authorised or exempt person; or
- e the provision of any designated investment business to:
 - i an issuer, holder or owner of investments with regard to the offer, issue, underwriting, repurchase, exchange or redemption of, or the variation of the terms of, the investments, or any related matter; or
 - ii any company or partnership which relates to the manner in which, or the terms on which, or the persons by whom, any business, activities or undertakings relating to it, or any associate, are to be financed, structured, managed, controlled, regulated or reported upon; or
 - iii any company in connection with a proposed or actual take-over by or on behalf of that company or its holding company or subsidiary or a merger, de-merger, re-organization or reconstruction involving any investments issued by such a company; or
 - iv any shareholder or prospective shareholder of a company established or to be established for the purpose of effecting a take-over.

In relation to contracts of insurance other than contracts of long-term insurance and contracts of long-term care insurance, firms may carry on the following insurance mediation activities provided they have first complied with regulation 4(3):

- f dealing as agent in the manner specified by article 21 of the Regulated Activities Order; or
- g making arrangements in the manner specified by article 25 of the Regulated Activities Order; or
- h assisting in the administration and performance of contracts of insurance within article 39A of the Regulated Activities Order; or
- i advising in the manner specified by article 53 of the Regulated Activities Order.

APPENDIX 2

Regulation 4(2) of the DPBRs

2 Prohibited activities

No firm may carry out any activity that relates to:

- a accepting deposits of a kind specified by article 5 of the Regulated Activities Order;
- b effecting and carrying out contracts of insurance as specified by article 10 of the Regulated Activities Order;
- c dealing as principal in investments within the meaning of article 14 of the Regulated Activities Order;
- d establishing, operating or winding up a collective investment scheme; act as a trustee of an authorised unit trust scheme or act as the depository or sole director of an open-ended investment company as specified within article 51 of the Regulated Activities Order;
- e establishing, operating or winding up a personal pension scheme or stakeholder pension scheme within article 52 of the Regulated Activities Order;
- f recommendations to buy or subscribe for securities or contractually based investments which are admitted to dealing on an exchange or other market within article 53 of the Regulated Activities Order;
- g advising on the merits of entering into a regulated mortgage contract within article 53A, a regulated home reversion plan within article 53B and a regulated home purchase plan within article 53C of the Regulated Activities Order;
- h advising on the merits of entering into or varying the terms of a contract of long-term insurance, a contract of long-term care insurance or other insurance-based investment in the manner specified by article 53 of the Regulated Activities Order;
- i managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's as specified under article 57 of the Regulated Activities Order;
- j entering as provider into a funeral plan contract within article 59 of the Regulated Activities Order;

- k entering into or administering a regulated mortgage contract, regulated home reversion plans and regulated home purchase plans within articles 61, 63B and 63F of the Regulated Activities Order;
- l advising a person to become a member of a particular Lloyd's syndicate;
- m holding, or receiving, any money belonging to a client in the course of carrying on exempt regulated activities for a client which is not immediately due and payable on demand to the firm for its own account;
- n acting as a personal pension scheme or stakeholder pension scheme manager;
- o managing investments as a plan manager of a PEP or an ISA;
- p carrying on the activity of safeguarding and administering assets within article 40 of the Regulated Activities Order;
- q carrying on any investment activity relating to derivatives;
- r promoting, issuing or approving any investment advertisements;
- s undertaking any business involving pension transfers and pension fund withdrawals;
- t entering into a broker funds arrangement;
- u sponsoring or advising on issues of securities on the Stock Exchange, Alternative Investment Market (AIM) or Off Exchange (OFEX).

In addition to the prohibition on firms from carrying out any of the above activities, firms may not agree to carry on any activity contained in regulation 4(2).

This list will be reviewed from time to time and will be revised as necessary.

APPENDIX 3

Regulation 4(3) of the DPBRs

3 Special requirements for firms intending to carry on, or agreeing to carry on, insurance mediation activity

A firm wishing to carry on insurance mediation activity (ie the activities set out in regulations 4(1)(a), (b) and (d) in relation to insurance-based investments and the activities set out in regulations 4(1)(f) to (i)) must:

- a effect professional indemnity insurance with minimum limits of indemnity equivalent (at the time the policy is effected or renewed) to 1,120,200 euros in relation to each and every claim and 1,680,300 euros in the aggregate per year for all claims, except where the activity comprises providing information to a policyholder or potential policyholder or a permitted third party in the context of making arrangements with a view to transactions in the manner specified by article 25(2) of the Regulated Activities Order;
- b where the firm is not a sole practitioner, nominate an individual or individuals within the management of the firm who will be responsible for such activities;

- c ensure that a reasonable proportion of the persons within the management structure of the firm who are responsible for insurance mediation activity and all other persons directly involved in insurance mediation activity demonstrate the knowledge and ability necessary for the performance of their duties;
- d where the firm intends to establish a branch in, or provide cross border services to, another state of the European Economic Area (EEA), satisfy the conditions in paragraph 19 or 20 (as appropriate) of Part III of Schedule 3 to the Act;
- e satisfy the conditions that no person within the management structure of the firm or within the staff directly involved in insurance mediation activity is an undischarged bankrupt or has a criminal conviction for any serious offences relating to financial activities or crimes against property;
- f register with the Association for insurance mediation activity; and
- g before carrying on such activities, ensure that the following details appear on the FSA Register and have been updated, as informed by the firm to the Association:
 - i the firm's name and address;
 - ii details of the individuals referred to within regulation 4(3) (b); and
 - iii where relevant, each EEA state in which the firm has established a branch or is providing cross border services under the Insurance Mediation Directive.
- iii the contract of insurance has a total duration (or would have a total duration were any right to renew conferred by the contract exercised) of five years or less;
- iv the contract of insurance has an annual premium (or, where the premium is paid otherwise than by way of annual premium, the equivalent of an annual premium) of 500 euros or less, or the equivalent amount in other currency;
- v the insurance covers non-motor goods or travel insurance;
- vi the contract of insurance does not cover any liability risks (except, in the case of a contract which covers travel risks, where that cover is ancillary to the main cover provided by the contract);
- vii the insurance is complementary to the non-motor goods or service supplied by any provider; and
- viii the contract of insurance is of such a nature that the only information needed is the cover provided;
- c carrying on insurance mediation activity not by way of business. The 'by way of business' test comprises two elements:
 - i whether the person receives remuneration for the activity (whether monetary, non-monetary or in the form of an expectation of economic benefit);
 - ii whether the person pursues the activity with a degree of regularity or for commercial purposes.

A firm which undertakes insurance mediation activity and whose details do not appear on the FSA Register will be committing a criminal offence. While the Association will pass a firm's details to the FSA as part of its regulatory obligations, it is the firm's responsibility to ensure that its details appear on the FSA Register and are correct and up to date.

APPENDIX 4 **Regulation 4(4) of the DPBRs**

4 Activities which do not constitute insurance mediation activity

The following activities do not constitute insurance mediation activity and, as such, firms are free to carry on such activities as they do not fall within the Designated Professional Body Regulations:

- a advising in general terms on the need for or level of insurance cover or providing information to the policyholder or potential policyholder of a general nature on insurance products, provided that no recommendation is made of particular contracts of insurance, product providers or permitted third parties other than independent financial advisers;
- b carrying on insurance mediation activity where all of the following conditions are met:
 - i the principal activity of the person is other than insurance mediation activity;
 - ii the contract of insurance is not a contract of long-term insurance;

4 Applying for a firm's investment business certificate (Ireland)

ACCA was granted full Approved Professional Body (APB) status, under the Investment Intermediaries Act 1995 (IIA), by the Central Bank of Ireland (CBI) on 11 December 1998.

INTRODUCTION

APB status enables ACCA to authorise, through the issue of an ACCA firm's investment business certificate (Ireland), certain practising firms to conduct specific restricted investment activities.

The legislation referred to in this section is that applicable in the Republic of Ireland.

An application form can be found on ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation (tel: +44 (0)141 534 4175).

DO YOU NEED AN INVESTMENT BUSINESS CERTIFICATE (IRELAND)?

The Chartered Certified Accountants' Irish Investment Business Regulations 1999 as amended (IIBRs) lay down the conditions for the issue of, and the ongoing requirements for holding, investment business certificates (Ireland), and provide the basis of ACCA's compliance with the IIA. The IIBRs are included in the *ACCA Rulebook*.

Under the terms of the IIA, it is an offence to provide investment business services or investment advice in Ireland without authorisation. The CBI oversees the regulatory system under the IIA (previously the Financial Regulator). However, it also recognises other regulatory bodies and delegates responsibility to them for authorisation and regulation of their member firms.

If you are not already authorised by ACCA or directly authorised by the CBI (as an Investment Business Firm, Multi Agency Intermediary or Authorised Advisor), you may need to seek authorisation depending on the activities that your firm carries out. ACCA offers two different categories of authorisation depending on the activities the firm is going to undertake. The category of authorisation will also impact on the compensation arrangements that apply to the firm.

Category B authorisation

Your firm will need category B authorisation where it carries on investment business services or investment advice (defined below) which may include:

- receiving or transmitting orders in certain investment or insurance products; or acting as a deposit broker; or
- referring a client to a third party providing investment business services.

A category B firm may transmit orders only to certain product producers in the course of providing the above services.

Category A authorisation

In addition to the activities carried out by a category B authorised firm, category A authorised firms can execute orders in relation to investment instruments (defined below under 'Products covered by the IIA'), other than for own account. In addition, the firm would be able to promote single company BES schemes or a film company.

Neither category B nor category A firms may hold clients' funds or securities, but may accept non-negotiable cheques or similar instruments made payable to the product providers for the purposes of the receipt and transmission of orders.

If your firm intends to carry on any of the above listed activities, it will need to apply for an investment business certificate (Ireland), category A or category B.

If your firm carries on any of the above listed activities without being authorised by ACCA, another APB or directly by the CBI, your firm is performing a prohibited activity and is in breach of section 9(1) of the IIA.

In view of the complexity of the legislation and the broad range of activities that fall within the definition of investment business services under the IIA, ACCA recommends that all eligible firms are authorised.

The eligibility criteria for investment business certificates (Ireland) are set out later in this section.

INVESTMENT BUSINESS SERVICES COVERED BY THE IIA/ INVESTMENT ADVICE

Products covered by the IIA

The Act defines investment instruments very broadly. Full details of what comes under the definition of investment instruments can be found in Regulation 4(2) of the IIBRs, which (as a result of the enactment of the Insurance Act 2000) includes insurance policies including life, pension, endowments and general insurance policies such as house and motor vehicle.

Products not covered by the IIA

Investments in property are outside the scope of the IIA, unless the investment involves shares in a property-owning company.

There is provision in the IIA for additional instruments to be added to the list of products that are within its scope by ministerial order. Non-authorized firms should, therefore, regularly check that particular products that they are advising on, or arranging, have not come within the scope of the Act.

Investment business services

The IIA lists the activities that constitute investment business services. ACCA is able to authorise four of these activities:

- receiving and transmitting orders for investment instruments
- executing orders on behalf of investors
- acting as a deposit broker
- undertaking insurance mediation activities.

ACCA cannot authorise firms to carry out the remaining seven investment business services:

- dealing in one or more investment instruments for own account
- managing portfolios of investment instruments or deposits on a discretionary basis
- underwriting in respect of issues of one or more investment instruments or the placing of such issues or both
- acting as a deposit agent
- administering collective investment schemes
- carrying out custodial operations
- acting as a manager of a designated investment fund.

Or the following:

- carrying out any activity relating to derivatives
- carrying on any other activity constituting the provision of investment business services or investment advice within the meaning of section 2 of the IIA other than an activity falling within IIBR 4(2)
- holding or receiving any money belonging to a client in the course of carrying on investment business services for a client which is not immediately due and payable on demand to the firm for its own account.

Any ACCA firms that undertake these activities should seek authorisation directly from the CBI.

Investment advice

ACCA is able to authorise firms to give investment advice. This is defined as the giving of, or offering or agreeing to give, to any person, advice on the purchasing, selling, or subscribing for an investment instrument, or on the making of a deposit or on the exercising of any right conferred by an investment instrument to acquire, dispose of, or convert an investment instrument or deposit. The definition also includes the giving of, or offering or agreeing to give, to any person, advice on choice of a person providing investment business services. This includes advice on BES investments and film investments.

Advice given to undertakings on capital structure, industrial strategy and related matters and advice relating to mergers and the purchase or sale of undertakings are not included as investment advice.

General exemption

The IIA exempts the following from the definition of investment advice:

'Advice given by persons in the course of the carrying on of any profession or business ... where the giving of such advice arises from other advice given in the course of carrying on that profession ... and that advice is not remunerated separately' Although the 'arises from' test is reasonably easy to meet, the 'remunerated separately' aspect is more difficult. Accountants are seen as being paid on a time basis. If you do not mention any investment advice on your fee note, it may not mean, legally, that you were not paid for that advice.

CONDITIONS FOR THE ISSUE OF AN INVESTMENT BUSINESS CERTIFICATE (IRELAND)

The IIBRs lay down the conditions for the granting, and subsequent renewal, of investment business certificates (Ireland). Within partnerships/incorporated firms, a nominated contact partner/director (who must be a member of ACCA) will have overall responsibility for the firm's compliance with the conditions detailed below, and he or she must state his or her firm's compliance with these requirements in the renewal form.

Eligibility

The detailed requirements are given in regulation 3 of the IIBRs.

A sole practitioner shall be eligible for an investment business certificate (Ireland) if he or she is a member of ACCA, if he or she holds a practising certificate, and if his or her main business is the public practice of accountancy. The firm must be solvent and in addition, for category A authorisation, it must hold minimum net business assets of €10,000.

A partnership whose main business is the public practice of accountancy is eligible for an investment business certificate (Ireland) if its partners are either:

- members of ACCA, or members of other APBs (such as Chartered Accountants Ireland), or
- otherwise entitled to practise accountancy and regulated by another professional body.

In addition:

- all partners who are not members of ACCA must give undertakings to abide by ACCA's regulations;
- at least one of the partners in the firm must be an ACCA member;
- those partners who are not members of ACCA or of another APB should not form a majority of the partners of the firm;
- all partners who are ACCA members must hold practising certificates valid in Ireland, and each partner who is not an ACCA member must hold such other qualification as is deemed adequate by the Admissions and Licensing Committee; and
- the partnership must be solvent and in addition, for category A authorisation, it must hold minimum net business assets of €10,000.

A company which has as its main business the public practice of accountancy will be eligible for an investment business certificate (Ireland) if its directors and controllers are either:

- members of ACCA, or members of other APBs (such as Chartered Accountants Ireland), or
- otherwise entitled to practise accountancy and regulated by another professional body.

In addition:

- all directors and controllers who are not members of ACCA must give undertakings to abide by ACCA's regulations;
- at least one of the directors in the firm must be an ACCA member;
- those directors who are not members of ACCA or of another APB should not form a majority of the board of directors;
- all directors who are ACCA members must hold practising certificates valid in Ireland, and each director who is not an ACCA member must hold such other qualification as is deemed adequate by the Admissions and Licensing Committee;
- the company must be solvent, and in addition, for category A authorisation, it must hold minimum net business assets of €10,000.

A controller is a person who either alone or with any associates controls 15% or more of the rights to vote on the majority of matters at general meetings.

Investment business limits

ACCA is only able to authorise firms whose main business is the public practice of accountancy. Where 20% or more of a firm's total turnover on an annual basis derives from investment business services or investment advice, this fact must be notified to ACCA who will refer the matter to the CBI for its consideration. In addition investment business services and/or investment advice must be provided in an incidental manner, not isolated from the other activities of the firm in a manner which would suggest that it is a separate business.

Compensation scheme arrangements

Depending on their category of authorisation, firms must make contributions to the Investor Compensation Company Limited (ICC). This company is established under the Investor Compensation Act 1998 and is independent of ACCA. The compensation levy for a category B firm is determined by the firm's income and the levy for a category A firm is determined by the number of eligible clients. Firms should contact ICC for details of the contribution required at: The Investor Compensation Company Limited, c/o The Central Bank of Ireland, PO Box 11517, Spencer Dock, North Wall Quay, Dublin 1. Tel: +353 (0)1 224 4955. Further details about the current contribution rates can also be found at www.investorcompensation.ie/publications.php

Minimum competency requirements

The minimum competency requirements were first published on 25 July 2006. These introduced a competency framework, designed to establish minimum standards for regulated entities. Firms are required to ensure that individuals who provide advice or who undertake certain specified activities on their behalf acquire the competencies set out in the requirements.

The requirements were reviewed and updated during 2011. The new Minimum Competency Code 2011 came into effect on 1 December 2011, and is available on the CBI website at <http://www.centralbank.ie/regulation/processes/minimum-competency-req/Pages/default.aspx>

Professional Indemnity Insurance

A firm wishing to carry on insurance mediation activity in Ireland must hold professional indemnity insurance (PII) in accordance with the requirements of the European Communities (Insurance Mediation) Regulations 2005. Currently, firms undertaking insurance mediation work must hold at least 1,000,000 euros in relation to each and every claim within a calendar year and 1,500,000 euros in aggregate. These minimum PII limits are subject to change from time to time and members must ensure that they hold the appropriate level of cover at the time the policy is effected or renewed.

Monitoring

ACCA will monitor and enforce its bye-laws and regulations by analysing practitioners' returns and carrying out monitoring visits. A first monitoring visit should take place within three years. A five-year monitoring cycle will be implemented following this initial visit. Visits may be more frequent, however, as a result of complaints or as a result of evidence of non-compliance at a first visit.

Descriptions

Authorised firms must include the following statement on their business stationery:

'Authorised to undertake investment business services in Ireland by the Association of Chartered Certified Accountants'.

Firms holding investment business certificates (Ireland) are required to comply with basic requirements of 'good practice' as laid out in ACCA's IIBRs (eg 'know your client').

GUIDE TO THE PROVISION OF INVESTMENT BUSINESS SERVICES AND INVESTMENT ADVICE AND COMPLIANCE WITH ACCA'S IRISH INVESTMENT BUSINESS REGULATIONS

ACCA's IIBRs are designed to protect both the interests of clients and the practising accountant. The rules will not in any way impinge on the activities of a practice that is providing good professional investment advice, other than to impose an obligation to document the work performed.

The rules and guidance on expected good practice are summarised below. However, if you are going to undertake IIA business, you should refer directly to the IIBRs, as the detail here is not sufficient to ensure full compliance, and failure to implement certain of the rules will constitute a criminal offence under the IIA.

Client money

ACCA's IIBRs do not allow practices to handle investment business client money. Firms may still deal with client tax payments, etc through their client bank account but, where the funds are to be used for an investment, firms may not channel them through their practices. Clients should make their cheques out to the product providers directly.

Basic requirements to undertake investment business

All firms involved in providing investment business advice must ensure that they have the following procedures in place:

Compliance systems

The firm's personnel should be made aware of the activities that fall within the scope of the IIA. Policies and procedures will have to be implemented with respect to who in the firm may provide IIA advice. Standard documentation for 'know your client' and 'client agreements' will need to be drafted. A system for dealing with client complaints and a system of filing and safeguarding client records will need to be implemented. The firm will also need to ensure that its records are sufficient to demonstrate compliance with the IIBRs in the event of a monitoring visit.

Know your client

What does your client want, and what needs can you identify that the client may have overlooked? You will need to undertake a factfind with the client to identify these needs. A factfind is a question and answer procedure, using reasonably standard questions, to identify a client's current financial position and future financial aspirations.

A tax and correspondence file review are not sufficient to identify these needs as in many cases the client may not even know that he or she has a need until it is too late to plan anything – for example, paying for private education for children or the need for life insurance or pension planning.

Some of these needs do not fall within the scope of the IIA. However, they will still need to be identified to ensure that the IIA product is the most suitable.

Suitability or best advice

The practitioner should identify the most suitable product on the market to meet the needs identified during the factfind. The practitioner needs to identify specific features that will suit the client, and weigh up one product against another. For example, a

unit-trust-based product may not be as suitable as a 'with profit' product for a risk averse client. You must match your client's needs to the actual product offered.

Risk warnings

All investments carry some risk, even blue chip bank deposits. It is important that a client understands the nature of the risk undertaken and confirms this in writing.

Relations with clients

You must provide your client with the following documents:

- written client agreement
- key features
- reason why letter
- post-sale information.

Key features

This should include essential product features that the client needs to understand, details of the specific client 'needs' met by the product, client contributions and expected return. Key features should also include details of total charges and the amount of commission you earn. In practice, the product provider can provide this information in booklet form. This should be sent to the client prior to the client agreeing to buy the particular product.

Reason why letter

This letter should be sent to the client explaining the reason why you chose a particular product. It should be client-specific and correspond with the details noted during your factfind. For example, you might point out that the particular tracker bond was chosen because it is based on blue chip stocks only and is, therefore, medium risk – a specific requirement that the client identified during the factfind.

Post-sale information

This contains similar information to the key features document, but confirms the product purchased and cancellation rights, while reinforcing any risk warnings.

Best execution

This requires the practitioner to obtain products at the best possible price. It usually refers only to products that fluctuate on a regular basis, such as stocks and shares or units in a collective investment scheme. This is usually achieved through timely execution. Once a firm has agreed to effect a transaction for the client, it must do so as soon as reasonably practicable.

Documentation

The practitioner will need to document the entire process in sufficient detail to demonstrate compliance with the IIBRs. In particular, there are additional documentary requirements attaching to certain types of products, such as life assurance and pensions policies, Personal Retirement Savings Accounts and collective investment schemes. Documentation is key to the whole process. Most practitioners know their clients extremely well and so might be tempted to complete a factfind form with little or no assistance from the client. However, even in these situations many important details may not be known, such as existing policies, long and short-term future plans, retirement aspirations, and plans for children's education. It is unlikely that you will be aware of any impending marital separation or plans to build a new house, and a formal factfind should identify any omissions.

Using 'key features' and 'reason why' letters informs the client of what they are getting. It also provides the firm with a safeguard, should the client complain in a few years' time, for example, that the with-profit investment did not perform as well as a similar unit-trust-based investment. Your key features should explain why one is a lower risk and may, therefore, have a smaller return.

Sundry matters

The CBI has asked that firms' attention be drawn to a number of points in respect of investment business as follows:

Client transaction priority

Firms may not deal for own account. This is an important safeguard to ensure that own account dealing will not result in a loss to the client. Where an employee deals in shares on his or her own account, and a client also has a holding, it is important that a review process is in place to ensure the client is safeguarded and that the ACCA rules as to integrity and objectivity have been followed.

Information to clients

Where a firm itself seeks advice on behalf of a client, this fact should be disclosed to the client. The name of the party providing the advice should also be disclosed.

Conclusion

The documentation requirement under the IIBRs is detailed but not onerous. The IIBRs do not make selling IIA products more difficult, but formalise what should be 'best practice'.

APPLICATION TO NORTHERN IRELAND AND THE UK

Northern Ireland (NI) and UK-based ACCA firms may apply for authorisation under the IIA. Where a client is located in the Republic of Ireland (ROI) and IIA advice is given while the adviser is physically in ROI, then IIA authorisation may be required.

Advice given by a practitioner physically located in ROI to a NI or UK-located client will also require IIA authorisation. Depending on how the approach to the NI-located client was initiated, the practitioner may also need UK Financial Services and Markets Act 2000 authorisation. The territorial scope of the IIA and the FSA and the legal principles regarding the provision of services across international borders are complex. Members are advised to seek legal advice prior to undertaking such business.

Renewal of firms' investment business certificates (Ireland)

All firms' investment business certificates (Ireland) are valid only until 31 December in the year of issue and are renewable annually.

FEES

The authorisation fee for an investment business certificate (Ireland) in 2012 is £468 per firm.

5 Applying for an insolvency licence

The Chartered Certified Accountants' Global Practising Regulations (GPRs) set out the eligibility criteria for obtaining an insolvency licence and detail the continuing obligations placed on insolvency licence holders.

WHO REQUIRES AN ACCA INSOLVENCY LICENCE?

Any person in the UK wishing to hold appointments regulated by the Insolvency Act 1986 (as amended) or Insolvency (Northern Ireland) Order 1989 (as amended) must first obtain an insolvency licence from a Recognised Professional Body (RPB) or competent authority (ie the Insolvency Service in Great Britain or the Department of Enterprise, Trade and Investment in Northern Ireland).

The legislation does not extend to the Channel Islands and Isle of Man, and there is no comparable legislation in the Republic of Ireland. In these jurisdictions, members may hold wholly local insolvency appointments if they hold ACCA practising certificates. In other jurisdictions, members must similarly hold ACCA practising certificates in order to undertake wholly local insolvency appointments. In addition, members practising insolvency outside the UK must comply with any prevailing legislation governing insolvency appointments. Insolvency licences are not, as a general rule, issued to members outside the UK unless there are compelling reasons why UK insolvency appointments need to be held.

A UK member who engages exclusively in insolvency work may hold an ACCA insolvency licence on a 'stand-alone' basis, and need not also hold a practising certificate. However, a member who holds an insolvency licence issued by another RPB, or engages in activities other than insolvency and falling within ACCA's definition of public practice (outlined in section 1), will also need to hold an ACCA practising certificate.

In the UK, a member may also apply for an insolvency licence in a non-appointment-taking capacity, for example as an assistant to an appointment-taker. An applicant for a non-appointment-taking insolvency licence must satisfy the same eligibility criteria, detailed below, as an appointment-taker. However, there is no requirement

for such an applicant to take out professional indemnity insurance in their own right or to hold an enabling bond.

A person who is not a member of ACCA may apply for an ACCA insolvency licence. Separate application forms for members and non members can be found on ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation (tel: +44 (0)141 534 4175).

GLOBAL PRACTISING REGULATIONS

The Chartered Certified Accountants' Global Practising Regulations 2003 (GPRs) are reproduced in the ACCA Rulebook, which is circulated on CD-ROM to all ACCA practising certificate and insolvency licence holders automatically in January of each year. The *ACCA Rulebook* can also be found on ACCA's website at www.accaglobal.com/members/professional_standards

ELIGIBILITY FOR AN INSOLVENCY LICENCE

To obtain an insolvency licence a member must either have previously held one (or have previously held one issued by another RPB or the Secretary of State) or have the right to practise in the United Kingdom as an insolvency practitioner pursuant to the European Communities (Recognition of Professional Qualifications) Regulations 2007 (S.I.2007/2781)* or, if it is an initial application, must meet the following requirements:

- i have been a member of ACCA for a continuous period of at least two years preceding the application for an insolvency licence;
- ii have at least three years of practical experience in a firm of practising accountants or insolvency practitioners, under the supervision of a licensed insolvency practitioner, or in an

Official Receiver's office, of which at least two years must have been obtained after admission to membership;

- iii have obtained at least 600 hours of insolvency experience (and at least 150 hours in each of three calendar years) in the three years immediately preceding the application for an insolvency licence; and
- iv have obtained a pass in the examinations of the Joint Insolvency Examination Board (JIEB).

(* Such applicants must still meet the ongoing experience requirement set out below.)

'Membership' is defined as the formal grant of the ACCA letters, not simply the completion of the ACCA examinations. Details of what constitutes 'relevant insolvency experience', including a list of the appointments in which it is permissible to act as an assistant to an appointment-holder in order to gain the required number of hours of experience, are set out below.

The examination of the JIEB may only be attempted if, by the date on which it is held, a candidate has completed one year of ACCA membership. There is no requirement, however, for this year to have been spent obtaining relevant insolvency experience. Since the exam is essentially practical, relevant experience is clearly a considerable advantage.

Further information on the JIEB examination can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards/prac_info/licences. The examination is generally held in early November and entry forms are usually available from June, with the closing date normally being in September.

The RPBs and competent authorities under the Insolvency Act 1986 and the Insolvency (Northern Ireland) Order 1989 share information supplied in relation to insolvency licence applications and renewals, and any matter disclosed to ACCA may, as appropriate, be disclosed to any other RPB or competent authority with an interest in the matter. In applying for or renewing a licence, a member must undertake to accept this disclosure provision.

ELIGIBILITY OF NON-MEMBERS FOR AN INSOLVENCY LICENCE

A person who is not a member may still be regulated by ACCA solely to act as an insolvency practitioner. To obtain an insolvency licence a non-member must either have previously held one issued by ACCA (or have previously held one issued by another RPB or the Secretary of State) or, if it is an initial application, must meet the following requirements:

- i have completed three years of practical experience under the supervision of a licensed insolvency practitioner, or in an Official Receiver's office; and
- ii have obtained a minimum of 600 hours' insolvency experience (and at least 150 hours in each of three calendar years) in the three years immediately preceding the application for an insolvency licence; and
- iii have passed the examinations set by the JIEB.

In addition, non-members are required to provide undertakings to be bound by ACCA's:

- i Global Practising Regulations,
- ii Authorisation Regulations,
- iii Charter, bye-laws and regulations of ACCA, insofar as they are appropriate and applicable, and
- iv disciplinary procedures, together with any penalties imposed under such provisions, insofar as such penalties could be applicable to a person who is not a member of ACCA, as if they were members of ACCA.

RELEVANT INSOLVENCY EXPERIENCE

The 600 hours of insolvency experience required for the issue of an insolvency licence may be gained as an assistant to an office holder in the following appointments:

- company liquidator, including liquidator in a members' voluntary winding-up
- company administrator, receiver and administrative receiver
- supervisor of a composition or scheme for a company
- trustee in bankruptcy or interim receiver or interim or permanent trustee in sequestration
- trustee under a deed of arrangement or trust deed for creditors
- supervisor of a composition or scheme for individuals
- administrator under section 421 of the Insolvency Act 1986 of insolvent estates of deceased individuals.

The nature of the insolvency experience sought should be considered diligently, and it is suggested that experience should be obtained in the following activities:

Accounting

- maintenance of accounting records for companies in liquidation including cash books, bank accounts and, where appropriate, nominal, sales and purchase ledgers
- preparation of statements of affairs, creditors' and debtors' schedules, valuation of stock, work-in-progress and finished goods.

Assets

- verification of the existence of assets
- verification of the ownership of assets.

Payroll

- agreement of outstanding claims with employees
- agreement of entitlement under employment legislation
- staff evaluation and payroll costs
- controlling the payroll
- creating new or adapting existing systems to record wage and salary payments
- deductions from gross pay.

Control of financial records

- evaluating existing financial systems and recording methods
- assessing the adequacy of accounting systems as a basis for the preparation of accounts
- ascertaining and evaluating the system of control if reliance is to be placed upon it
- reviewing financial statements to see that they are consistent with other evidence obtained.

Evaluating profitability

- evaluating the short and long-term profitability and the potential for the business to be sold as a going concern
- preparing budgets and cash flow projections
- product and market evaluation.

Cash management

- investing of funds
- designing procedures for making payments
- cash flow.

Sale of business and assets

- meeting with prospective purchasers
- preparing financial information
- liaising with agents to prepare sales brochure
- evaluating offers received.

Taxation

- agreeing the taxation of a company with HM Revenue and Customs including:
 - corporation tax
 - income tax
 - capital gains tax
 - Value Added Tax
 - national insurance contributions
- tax planning (in particular, in relation to a members' voluntary winding-up).

General

- agreeing all creditors' claims – secured, preferential and unsecured
- ensuring that all the relevant statutory requirements relating to insolvencies are observed including filing of forms, reports to creditors, bond requirements, etc
- preparing reports for creditors, auditors, banks, etc
- convening and conducting creditors' meetings
- preparing and presenting evidence in court.

ONGOING CONDITIONS FOR HOLDING AN INSOLVENCY LICENCE

At the time of writing, any member who has previously held an insolvency licence remains eligible to resume holding a licence without having to re-sit the JIEB examination, subject to still being a fit and proper person and meeting the ongoing experience requirement.

Fit and proper

ACCA will only issue insolvency licences to applicants who are, and who continue to be, 'fit and proper' persons. Please refer to the Global Practising Regulations for the criteria used by the Admissions and Licensing Committee in determining whether a person is fit and proper. A summary of the criteria is also contained in section 1.

ACCA may, in addition, and without limitation, also have regard to matters listed in Regulation 6 of the Insolvency Practitioners Regulations 2005 (Statutory Instrument 2005/524).

Continuing professional development

All insolvency licence holders are required to undertake CPD, in accordance with Membership Regulation 4(4). There are four alternative routes to obtaining satisfactory CPD. These are explained on ACCA's website at www.accaglobal.com/members/cpd

Individuals following the unit route are required to undertake a minimum of 40 units of relevant CPD each year, of which 21 units should be verifiable CPD. Licence holders should be able to demonstrate that they have maintained competence in the specialised areas of their practices. For example, individuals who work in the personal insolvency field will need to ensure they maintain their knowledge across both statutory and non-statutory solutions.

A licence holder who undertakes, as a result of holding a practising certificate, other types of work should divide his or her CPD between the various subject areas in which he or she works, to ensure they address any identified need and maintain competence in the areas in which he or she works.

Further information on CPD can be found in a separate factsheet entitled 'Continuing professional development (CPD) for practising members' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Professional indemnity insurance

An insolvency practitioner who is an appointment-taker must hold professional indemnity insurance (PII). In the case of a person who employs full and/or part-time staff, fidelity guarantee insurance (FGI) must be held in respect of all partners, directors and employees. A member ceasing to practise must make arrangements for the continued existence of PII and FGI for a period of six years.

Responsibility for obtaining adequate cover lies with the individual and may be effected with any reputable insurance company or underwriter. Further information on PII, including details of the limit of indemnity, can be found in a separate factsheet entitled 'Professional indemnity insurance requirements' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Insolvency practitioners' bonds and monthly cover schedules

An insolvency practitioner who is an appointment-taker is required to obtain an 'enabling bond' (or, in Scotland, a caution), with a minimum of £250,000 of cover, from a reputable insurer, and to obtain specific bonds in respect of the assets to come under his or her control in respect of each insolvency appointment taken, which shall be detailed on monthly cover schedules. These schedules are to be submitted to the holder's enabling bond insurer by the 15th day of each month following that to which they relate and to ACCA by the 20th day of each month. The schedules may be submitted to ACCA at:

Authorisation
ACCA
2 Central Quay, 89 Hydepark Street, Glasgow G3 8BW
United Kingdom

or by email to authorisation@accaglobal.com

Details of the requirements are contained in the Insolvency Practitioners Regulations 2005; please see Appendix 1 at the end of this section.

Appointment-takers are required to provide either a copy or the original of their enabling bond before the licence can be issued. A copy can be submitted by email to authorisation@accaglobal.com

Continuity of practice

An insolvency practitioner who is an appointment-taker must enter into, and keep in force for all the period during which a licence is held, a written agreement with another insolvency practitioner – the 'nominee'. For partners, this agreement may be made with another equivalent level certificate holder in the practice. This provides for the nominee to be responsible for the individual's practice (or the particular areas of the practice covered by the agreement) in the event of death or incapacity.

Continuity can be assured by entering into a continuity agreement or, in the case of incorporated firms, by making provision for it in the memorandum and articles of association. The nominee must be based in the same country as the individual, and be authorised to carry on all of the individual's work in the areas covered by the agreement (ie have the same types of authorisation). Where the individual practises in more than one country, separate nominees must be appointed accordingly.

The name and address of the person or firm responsible for continuity must be given on the insolvency licence application form. It is mandatory that a written agreement (or provision in the memorandum and articles of association) be made, and this may be inspected by ACCA. Further information on continuity of practice can be found in a separate factsheet entitled 'Continuity of practice requirements' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Notification

Information on notifiable events, and the time requirements for notification (some changes must be notified 28 days in advance), can be found in a separate factsheet entitled 'Notification requirements' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

Ongoing experience requirement

A licence holder wishing to renew his or her insolvency licence must continue to meet, as an appointment-taker, joint appointment-taker or as an assistant to an appointment-taker, an ongoing experience requirement, and obtain the relevant number of hours of insolvency experience as follows:

- 600 hours' experience gained over a period of more than three but less than or equal to five years immediately preceding the renewal application, of which at least 150 hours must have been gained in each of three calendar years within such period; or
- 750 hours' experience gained over a period of more than five but less than or equal to eight years immediately preceding the renewal application, of which at least 100 hours must have been gained in each of four calendar years within such period; or

- 900 hours' experience gained over a period of more than eight years immediately preceding the renewal application, of which at least 75 hours must have been gained in each of six calendar years within such period.

A licence holder who fails to meet the relevant insolvency experience requirement for any one calendar year shall be eligible for an insolvency licence provided he or she can demonstrate that he or she has undertaken an adequate programme of additional continuing professional development during that year.

Conduct

All insolvency licence holders must comply with ACCA's Code of Ethics and Conduct. In addition, insolvency licence holders should refer to the specific guidance on insolvency practice and other sections concerned with the proper conduct of public practice, integrity and independence as well as the insolvency legislation and Statements of Insolvency Practice (SIPs). The SIPs can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards/monitoring/insolvency

Monitoring

Insolvency licence holders must co-operate with ACCA in its monitoring and enforcement of compliance with the bye-laws and regulations. ACCA will monitor and enforce its bye-laws and regulations by analysing practitioners' annual returns and carrying out monitoring visits.

Further information on monitoring can be found in a separate factsheet entitled 'Monitoring requirements and global quality assurance' which can be downloaded from ACCA's website at www.accaglobal.com/members/professional_standards or requested from Authorisation.

OTHER USEFUL INFORMATION

Useful information about the UK Consumer Credit Act 1974, money laundering and registering for investment business in the UK and Ireland can be found in section 1.

Renewal of insolvency licences

All insolvency licences are annually renewable and are valid only until 31 December in the year of issue. Renewal notifications for insolvency licences are usually sent in September of each year.

Spare-time licences

A member is regarded as being in spare-time insolvency practice if he or she holds an insolvency licence while employed in industry, commerce or public service or while employed (as opposed to being a partner, director or principal) in a practice. A practitioner will be asked on his or her application form whether the licence is in respect of spare-time insolvency practice. However, the experience requirements for obtaining spare-time insolvency licences, and the ongoing conditions, are the same as for full-time licences.

ACCA holds on file details of a member's residential and business addresses and that of the spare-time insolvency practice if it constitutes a third address. It is essential when reporting changes in business details or addresses that it is clear which address is to be amended.

Insolvency levies

All ACCA insolvency licence holders are required to pay annual levies to the Insolvency Service, Insolvency Practices Council and the Department of Enterprise, Trade and Investment in Northern Ireland. Invoices are usually sent out in April each year by ACCA and are payable irrespective of whether or not appointments are taken or held.

INSOLVENCY LICENCE FEES – 2012**Members**

Insolvency licence – non-appointment-taker	£393
Insolvency licence – appointment-taker	£1,699

Non-members

Insolvency licence – non-appointment-taker	£582
Insolvency licence – appointment-taker	£1,896

APPENDIX 1 – APPLYING FOR AN INSOLVENCY LICENCE

There follows an extract from The Insolvency Practitioners Regulations 2005.

The Requirements for Security and Caution for the Proper Performance of the Functions of an Insolvency Practitioner etc.

- 12(1) Schedule 2 shall have effect in respect of the requirements prescribed for the purposes of section 390(3)(b) in relation to security or caution for the proper performance of the functions of an insolvency practitioner and for related matters.
- (2) Where two or more persons are appointed jointly to act as insolvency practitioners in relation to any person, the provisions of this regulation shall apply to each of them individually.

Schedule 2

Requirements for Security or Caution and Related Matters

Part 2 – Requirements relating to security and caution

Requirements in respect of security or caution

- 2 The requirements in respect of security or caution for the proper performance of the duties of insolvency practitioners prescribed for the purposes of section 390(3)(b) shall be as set out in this Part.

Requirement for Bonding – Terms of the Bond

- 3(1) Where an insolvency practitioner is appointed to act in respect of an insolvent there shall be in force a bond in a form approved by the Secretary of State which:
- a contains provision whereby a surety or cautioner undertakes to be jointly and severally liable for losses in relation to the insolvent caused by:
 - i the fraud or dishonesty of the insolvency practitioner whether acting alone or in collusion with one or more persons; or
 - ii the fraud or dishonesty of any person committed with the connivance of the insolvency practitioner and
 - b otherwise conforms to the requirements of this Part.
- (2) The terms of the bond shall provide:
- a for the payment, in respect of each case where the insolvency practitioner acts, of claims in respect of liabilities for losses of the kind mentioned in sub-paragraph (1) up to an aggregate maximum sum in respect of that case ('the specific penalty sum') calculated in accordance with the provisions of this Schedule;
 - b in the event that any amounts payable under (a) are insufficient to meet all claims arising out of any case, for a further sum of £250,000 ('the general penalty sum') out of which any such claims are to be met;

- c for a schedule containing the name of the insolvent and the value of the insolvent's assets to be submitted to the surety or cautioner within such period as may be specified in the bond;
 - d that where at any time before the insolvency practitioner obtains his release or discharge in respect of his acting in relation to an insolvent, he forms the opinion that the value of that insolvent's assets is greater than the current specific penalty sum, a revised specific penalty sum shall be applicable on the submission within such time as may be specified in the bond of a cover schedule containing a revised value of the insolvent's assets;
 - e for the payment of losses of the kind mentioned in sub-paragraph (1), whether they arise during the period in which the insolvency practitioner holds office in the capacity in which he was initially appointed or a subsequent period where he holds office in a subsequent capacity;
- (3) The terms of the bond may provide:
- a that total claims in respect of the acts of the insolvency practitioner under all bonds relating to him are to be limited to a maximum aggregate sum (which shall not be less than £25,000,000); and
 - b for a time limit within which claims must be made.
- 4 Subject to paragraphs 5, 6 and 7, the amount of the specific penalty in respect of a case in which the insolvency practitioner acts, shall equal at least the value of the insolvent's assets as estimated by the insolvency practitioner as at the date of his appointment but ignoring the value of any assets:
- a charged to a third party to the extent of any amount which would be payable to that third party; or
 - b held on trust by the insolvent to the extent that any beneficial interest in those assets does not belong to the insolvent.
- 5 In a case where an insolvency practitioner acts as a nominee or supervisor of a voluntary arrangement under Part I or Part VIII of the Act, the amount of the specific penalty shall be equal to at least the value of those assets subject to the terms of the arrangement (whether or not those assets are in his possession) including, where under the terms of the arrangement the debtor or a third party is to make payments, the aggregate of any payments to be made.
- 6 Where the value of the insolvent's assets is less than £5,000, the specific penalty sum shall be £5,000.
- 7 Where the value of the insolvent's assets is more than £5,000,000 the specific penalty sum shall be £5,000,000.
- 8 In estimating the value of an insolvent's assets, unless he has reason to doubt their accuracy, the insolvency practitioner may rely upon:

- a any statement of affairs produced in relation to that insolvent pursuant to any provision of the Act; and
- b in the case of a sequestration:
 - i the debtor's list of assets and liabilities under section 19 of the Bankruptcy (Scotland) Act 1985;
 - ii the preliminary statement under that Act; or
 - iii the final statement of the debtor's affairs by the interim trustee under section 23 of the Bankruptcy (Scotland) Act 1985.

Part 3 – Records relating to bonding and connected matters

Record of specific penalty sums to be maintained by insolvency practitioner

- 9(1) An insolvency practitioner shall maintain a record of all specific penalty sums that are applicable in relation to any case where he is acting and such record shall contain the name of each person to whom the specific penalty sum relates and the amount of each penalty sum that is in force.
- (2) Any record maintained by an insolvency practitioner pursuant to this paragraph shall, on the giving of reasonable notice, be made available for inspection by:
 - a any professional body recognised under section 391 of the Act of which he is or was a member and the rules of membership of which entitle or entitled him to act as an insolvency practitioner;
 - b any competent authority by whom the insolvency practitioner is or was authorised to act pursuant to section 393 of the Act; and
 - c the Secretary of State.

Retention of bond by recognised professional body or competent authority

- 10 The bond referred to in paragraph 3 shall be sent by the insolvency practitioner to:
 - a any professional body recognised under section 391 of the Act of which he is a member and the rules of membership of which entitle him to act as an insolvency practitioner; or
 - b any competent authority by whom the insolvency practitioner is authorised to act pursuant to section 393 of the Act.

Inspection and retention requirements relating to cover schedule – England and Wales

- 11(1) This regulation applies to an insolvency practitioner appointed in insolvency proceedings under the Act to act:
 - a in relation to a company which the courts in England and Wales have jurisdiction to wind up; or
 - b in respect of an individual.

- (2) The insolvency practitioner shall retain a copy of the cover schedule submitted by him in respect of his acting in relation to the company or, as the case may be, individual until the second anniversary of the date on which he is granted his release or discharge in relation to that company or, as the case may be, that individual.
- (3) The copy of a schedule kept by an insolvency practitioner in pursuance of sub-paragraph (2) shall be produced by him on demand for inspection by:
 - a any creditor of the person to whom the schedule relates;
 - b where the schedule relates to an insolvent who is an individual, that individual;
 - c where the schedule relates to an insolvent which is a company, any contributory or director or other officer of the company; and
 - d the Secretary of State.

Inspection and retention requirements relating to the cover schedule – Scotland

- 12(1) Where an insolvency practitioner is appointed to act in relation to a company which the courts in Scotland have jurisdiction to wind up, he shall retain in the sederunt book kept under rule 7.33 of the Insolvency (Scotland) Rules 1986, the principal copy of any cover schedule containing entries in relation to his so acting.
- (2) Where an insolvency practitioner is appointed to act as interim trustee or permanent trustee or as a trustee under a trust deed for creditors, he shall retain in the sederunt book kept for those proceedings, the principal copy of any cover schedule containing entries in relation to his so acting.

Requirements to submit cover schedule to authorising body

- 13(1) Every insolvency practitioner shall submit to his authorising body not later than 20 days after the end of each month during which he holds office in a case:
 - a the information submitted to a surety or cautioner in any cover schedule related to that month;
 - b where no cover schedule is submitted in relation to the month, a statement either that there are no relevant particulars to be supplied or, as the case may be, that it is not practicable to supply particulars in relation to any appointments taken in that month; and
 - c a statement identifying any case in respect of which he has been granted his release or discharge.
- (2) In this regulation 'authorising body' means in relation to an insolvency practitioner:
 - a any professional body recognised under section 391 of the Act of which he is a member and the rules of membership of which entitle him to act as an insolvency practitioner; or
 - b any competent authority by whom he is authorised to act as an insolvency practitioner pursuant to section 393 of the Act.

