

technical factsheet 160

Guidance on access to information by successor auditors

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INTRODUCTION

The provisions of Schedule 10 of the Companies Act 2006, and the following guidance, lays down the procedure expected to be followed by ACCA members and member firms whenever the office of statutory auditor changes (and access to information held by the predecessor auditor is sought). The new requirements of Schedule 10 are effective for accounting periods beginning on or after 6 April 2008.

The requirements have been incorporated into ACCA's Global Practising Regulations (GPRs). The Regulation is contained in paragraph 18 (d) of Annex 1 to the GRPs, which states: *'In the United Kingdom, a person ceasing to hold office as a statutory auditor shall make available to his successor in that office all relevant information which he holds in relation to that audit.'*

Scope

The new Regulation is applicable to statutory auditors as defined by section 1210 of Companies Act 2006. It follows that certain audit appointments are outside the scope of the new requirement. A full list of audit appointments to which the regulation applies can be found in the Technical Advisory section of the ACCA UK website at: <http://uk.accaglobal.com/uk/members/technical/audit/>.

The new Regulation is only applicable to auditors of UK entities, i.e. it is not applicable to UK auditors carrying out audits of foreign entities. It is also important to notice that, in a group audit situation, the successor group auditor would be entitled to the relevant information only in respect of the parent entity and any UK subsidiary for which the group auditor has also been appointed as statutory auditor.

The guidance only deals with the requirements of paragraph 18(d) of the GPRs. The new Regulation does not alter any requirement included in ACCA's Code of Ethics and Conduct.

The guidance does not deal with relevant information that may be subject to legal professional privilege.

GENERAL REQUIREMENTS

Formulation of access request

The request of access to 'all relevant information' by the successor auditor can only be made once the successor auditor has been appointed as statutory auditor. Therefore, the request will be integrated with the planning of the audit by the successor auditor.

The request should be formulated in writing and addressed for the attention of the senior statutory auditor (i.e. the engagement partner). An example letter setting out such a request is contained in Appendix A to this guidance.

Relevant information

Although the term 'all relevant information' is used in Schedule 10 of the Companies Act 2006, there is no definition of what constitutes 'relevant information'. A request for information may include a request for access to some or all of the audit working papers held by the predecessor, but should also include specific details. It is not possible to prescribe what would typically constitute relevant information and what would not. The successor auditor should be prepared to explain, if challenged by the predecessor auditor, why the information requested is considered relevant.

Relevant information may be included in various locations and forms including electronic storage systems. The predecessor auditor must be prepared to provide appropriate access to all forms of relevant information, having regard to the confidentiality of information relating to other clients and to any limitation of access to proprietary software.

Relevant information held by the predecessor auditor would normally be information relating to the last financial statements in respect of which an audit report was issued, although relevant information would certainly include information received by the predecessor up to the date of his ceasing to hold office including any in respect of an interim report. However, it is acknowledged that access to information relating to earlier periods may be needed by the successor auditor, and in addition, information of a permanent nature will often be relevant.

Access to Predecessor's Working Papers

When access is requested and granted to some or all of the predecessor's audit working papers, no obligation is placed on the predecessor to allow electronic copying of those working papers. Nevertheless, it is expected that the predecessor would not unreasonably deny the successor copies of any relevant working papers.

The practical details regarding access to relevant information, including the time and place, should be discussed and agreed between the successor and the predecessor auditors with a view to making the process efficient and effective. Where the request for access is considered reasonable, it should be facilitated within, and for, a reasonable period of time.

Access to Further Relevant Information

Where the relevant information requested includes information to be derived from the predecessor's audit working papers, explanations may be sought by the successor in order to obtain a better understanding. Reasonable explanations are likely to be an essential part of the 'relevant information' held by the predecessor auditor in relation to his office, and so are deemed to be within the scope of the Regulation. Explanations may be provided either orally or in writing, and it is reasonable to provide them in the same form as the requests for explanations. In all cases, both parties should keep records of the requests and the replies.

Management of Access Risk

The granting of access to relevant information held by outgoing auditors, especially in respect of access to working papers and related explanations, may present risks for the predecessor auditor in respect of the possible establishment of a duty of care (and consequential liability) towards the client and/or the successor auditor. The management of this risk is discussed in the detailed guidance below. Similar risks may be faced by the successor auditor, especially in respect of a potential liability towards the client, by virtue of his access to relevant audit information held by his predecessor.

DETAILED GUIDANCE FOR SUCCESSOR AUDITORS

Requesting Access

The successor auditor should make a request that is concise but specific in respect of the information that he considers necessary for his audit. A wide-ranging request for 'all relevant information' held by the predecessor auditor in respect of the audited entity should be avoided.

At one extreme, the successor auditor may consider that no request to the predecessor auditor is required, as there could be no relevant information beyond that already provided by the predecessor in connection with the successor's decision of whether or not to accept appointment. At the other extreme, the successor may consider that the appropriate request is to include access to all audit working papers and any background information of a more permanent nature.

The letter requesting access should state the name of the individual to whom the predecessor auditor should respond. Following a written response, it will often be appropriate to arrange access to working papers and other relevant documents by the quickest communication method.

An illustrative example of a request of access letter by a successor auditor is included in Appendix A.

Managing Risk

The access to relevant information held by the predecessor auditor may present risks for the successor auditor in respect of a potential duty of care towards the client.

This risk shall be reduced by treating as strictly confidential any information made available by the predecessor auditor. Such information should not be disclosed to any third party, who in this context would include the client, and in addition no opinion should be expressed to the client or any other third party about the quality of the audit work performed by the predecessor auditor, unless required by a legal or professional obligation. However, the successor

auditor will be able to discuss relevant information with his client if he judges it indispensable for the performance of the audit.

DETAILED GUIDANCE FOR PREDECESSOR AUDITORS

Costs to the Predecessor Auditor

The predecessor auditor will, inevitably, incur some costs in connection with retrieving and making available the information requested. It is reasonable that the predecessor auditor should recover such costs, which might include copying costs and time spent answering the successor auditor's enquiries.

The general requirement is that the predecessor should not charge an element of profit, when providing this information. The predecessor auditor may charge the client in respect of costs actually sustained, including the cost of labour to retrieve, copy and supply information.

It is recommended that the basis for the recovery of costs relating to the provision of relevant information to an eventual successor auditor be included in the audit engagement letter, so that it is known to the client and contractually binding.

The predecessor auditor is required to provide the relevant information to the successor auditor even if fees are outstanding from the client. However, the prospective auditor would normally be expected to draw the attention of the client to the fact that fees are due and unpaid, and to suggest that they should be paid.

Managing Risk

The provision of relevant information, including granting access to working papers, may present risks for the predecessor auditor in respect of the possible establishment of a duty of care towards the client and/or the successor auditor. This risk may be managed by issuing a letter to the successor auditor, setting out the following:

- the bases on which information and explanations are being provided and access to documentation is being granted
- that the predecessor auditor accepts no liability to the successor auditor, the client or any third party in connection with the information and/or access provided
- that the successor auditor shall treat any information made available to him as strictly confidential and shall not disclose it to any third party, who in this case would include the client, and shall not express opinions on the predecessor's work, unless required by a legal or professional obligation.

An illustrative example of a letter from a predecessor auditor is included in Appendix B to this guidance. It would be advisable to provide the client with a copy of the letter sent.

Confidentiality

A predecessor auditor who provides relevant audit information to his successor will not be expected to first obtain his client's permission, as the predecessor auditor is subject to a professional duty to provide the information. Specifically, the fundamental principle of confidentiality states that there is a right to disclose confidential information in order to comply with requirements of technical standards and ethics.

Money Laundering Considerations

The disclosure of relevant information to the successor auditor may constitute a 'tipping off' offence under the Proceeds of Crime Act 2002 if it involves access to money laundering reports made by the outgoing auditor or to audit working papers detailing the circumstances of money laundering knowledge or suspicions. Specific guidance on the auditor's conduct in such circumstances is contained in the Auditing Practices Board's Practice Note 12, Money Laundering – Interim Guidance for Auditors on UK Legislation, namely under paragraphs 59 and 60, and it should be adhered to by the predecessor auditor. Further guidance is available in ACCA Technical Factsheet 145 *Anti-money laundering guidance for the accountancy sector*, which incorporates guidance issued by CCAB.

Appendix A: Illustrative Letter from Successor Auditor

[Name of predecessor auditor]

[Address]

For the attention of [name of engagement partner]

Dear Sir

Request of Access to Relevant Information **[Name of client]**

We have been appointed statutory auditor of [name of client] as defined by section 1210 of Companies Act 2006.

In accordance with paragraph 9(3) of Schedule 10 to the Companies Act 2006 and with ACCA's Global Practising Regulations and associated guidance issued by ACCA, we request the following relevant information in respect of your former office as statutory auditor of [name of client]:

- *[Detail information that is relevant to the performance of the audit in accordance with the guidance given above.]*
- *[If necessary, request access to the predecessor's audit working papers or relevant sections of the working papers, referring to the relevant accounting period(s).]*
- *[Possibly, request access to any documents belonging to the client, (eg statutory books) indicating that the client has given their authority for such access.]*

If you are unable to provide any of the information requested above, please advise us accordingly and, if possible, indicate where the information may be held.

Should we consider it appropriate, we may also request you to give explanations in relation to the above information.

We look forward to receiving your reply, and should be grateful if you would address it for the attention of [name of contact].

Yours faithfully

[Name of successor auditor]

Appendix B: Illustrative Letter from Predecessor Auditor

[Name of successor auditor]

[Address]

For the attention of [name of contact]

Dear Sir

[Name of client]

We are writing in response to your letter dated [insert date] requesting us to allow you, as successor statutory auditor, access to relevant information we hold relating to our former office as statutory auditor of insert name of company.

We are prepared to grant you, as successor statutory auditor, access to the relevant information requested which is detailed below:

[Detail the information to which access is granted having regard to be consistent with the request formulated by the predecessor auditor]

We are also prepared to give explanations in relation to the above relevant information following a specific request from you formulated on the grounds of the same ACCA Practising Regulations.

This letter sets out the understanding (basis) in relation to the conditions upon which access to relevant information is granted to you and upon which explanations in relation thereto can be given.

We are prepared to grant access to you:

- a. pursuant to our obligation, under ACCA Practising Regulations, to make available to you relevant information and in accordance with relevant practices outlined in ACCA Technical Factsheet 160 and
- b. exclusively in your capacity of legally appointed statutory auditor, as defined by Section 1210 of Companies Act 2006, of insert name of company.

The fact that we are granting you access to relevant information that we hold in relation to our former office as statutory auditor of insert name of company does not modify any existing, or create any additional, responsibility that we owe to insert name of company's members as a body under the statutory provisions relating to our former engagement as statutory auditor.

If access is granted to our audit working papers we point out that the audit papers were prepared solely for the purpose of our forming an opinion, in accordance with the statutory requirement for audit on whether the financial statements, which are the responsibility of the directors of the company, give a true and fair view of the state of affairs as at the end

of the financial year and of the profit or loss for the period then ended. Our audits of the company's financial statements and the audit papers were not planned in contemplation of or for the purpose of providing support to the tasks required of your appointment as statutory auditor. Accordingly, we do not acknowledge any responsibility and deny any liability, to you in relation to the audited accounts and to the access to information relevant to our former office as statutory auditor of insert name of company. We, insert name of accountants Chartered Certified Accountants, its partners and staff neither owe nor accept any duty to you or to any other third party whether in contract or in tort (including without limitation, negligence and breach of statutory duty) or howsoever otherwise arising, and shall not be liable, in respect of any loss, damage or expense of whatsoever nature which is caused by your, or any other third party's, reliance upon the working papers or explanations given in relation thereto or which is otherwise consequent upon your access to working papers or receipt of such explanations.

In addition we do not warrant or represent that the information in our working papers, or any explanations thereto provided, is sufficient or even appropriate for the purpose of your appointment as statutory auditor. That is a matter for your judgement. Nor have we expressed an opinion or other form of assurance on individual account balances, financial amounts, financial information or the adequacy of financial accounting or management systems. For the foregoing reasons the working papers, or any explanations thereto provided, cannot in any way serve as a substitute for other enquiries and procedures that you should undertake for the purpose of conducting your appointment as statutory auditor.

You shall not use the working papers or any other information provided by insert name of accountants Chartered Certified Accountants, for any other purpose other than conducting your appointment as statutory auditor.

In accordance with relevant practices outlined in ACCA Technical Factsheet 160, or with corresponding guidance issued by your Recognised Supervisory Body, you shall not allow access to the working papers, or give information obtained from the working papers or from explanations given by the insert name of accountants Chartered Certified Accountants in relation thereto, to any other party including insert name of company, unless there is a legal or professional duty to do so. That would not preclude discussing relevant information with insert name of company if, according to your professional judgment, that would be indispensable for the performance of your audit. In addition you should not express opinions, whether in context of a specific engagement to do so or not, to any third party relating to the appropriateness of the audit work performed by insert name of accountants Chartered Certified Accountants and based on the information we have made available to you.

Yours faithfully

[Name of predecessor auditor]