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DRAFT STATUTORY INSTRUMENTS

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**2009 No.**

**The Overseas Companies Regulations 2009**

**PART 6**

**DELIVERY OF ACCOUNTING DOCUMENTS:  
CREDIT OR FINANCIAL INSTITUTIONS**

**CHAPTER 2**

**Institutions required to prepare accounts under parent law**

**Application and interpretation of Chapter**

**44.**—(1) This Chapter applies to a credit or financial institution to which this Part applies that—

- (a) is required by its parent law to prepare and have audited accounts; or
- (b) is incorporated in an EEA State, and is required by its parent law to prepare and disclose accounts, but is not required by its parent law to have its accounts audited or deliver its accounts.

(2) In relation to an institution to which this Chapter applies—

“accounting documents” in relation to a financial period of the institution, means—

- (a) the accounts of the institution for the period, including, if it has one or more subsidiaries, any consolidated accounts of its group,
- (b) any annual report of the directors for the period,
- (c) any report of the auditors on the accounts mentioned in sub-paragraph (a),
- (d) any report of the auditors on the report mentioned in sub-paragraph (b),

and for this purpose “subsidiaries” and “consolidated group accounts” have the meaning given to them by the institution’s parent law;

“director”, in the case of an institution which does not have directors, means persons occupying equivalent offices;

“disclosure” means public disclosure, except where an institution is not required under its parent law, any enactment having effect for the United Kingdom or its constitution to publicly disclose its accounts, in which case it means disclosure of the accounts to the persons for whose information they have been prepared;

“financial period” means a period for which the institution is required or permitted by its parent law to prepare accounts;

“parent law” means the law of the country in which the institution has its head office; and in the case of an institution which does not have directors, references to “directors” shall include the persons occupying equivalent offices.

### **Initial filing of copies of accounting documents**

**45.** A credit or financial institution must within one month of becoming an institution to which this Chapter applies deliver to the registrar copies of the latest accounting documents of the institution prepared in accordance with its parent law to have been disclosed before the end of the period allowed for compliance with this regulation, or, if earlier, the date of compliance with it.

### **Filing of copies of subsequent accounting documents**

**46.**—(1) A credit or financial institution to which this Chapter applies must deliver to the registrar copies of all the accounting documents of the institution prepared in accordance with its parent law that are disclosed on or after the end of the period allowed for compliance with regulation 45, or, if earlier, the date on which it complies with that paragraph.

(2) The period allowed for delivery, in relation to a copy of a document required to be delivered under paragraph (1), is three months from the date on which the document is required to be disclosed in accordance with the institution's parent law.

### **Statement of details of parent law and other information**

**47.**—(1) The copies of accounting documents delivered to the registrar under regulation 45 or 46 must be accompanied by a statement containing the following information.

(2) The information required is—

- (a) the legislation under which the accounts have been prepared and, if applicable, audited,
- (b) whether those accounts have been prepared in accordance with a set of generally accepted accounting principles, and if so, the name of the organisation or other body which issued those principles,
- (c) whether the accounts have been audited,
- (d) if they have been audited—
  - (i) whether they have been audited in accordance with a set of generally accepted auditing standards, and
  - (ii) if so, the name of the organisation or other body which issued those standards, and
- (e) if they have not been audited, whether the institution is not required to have its accounts audited.

### **Supplementary provisions as to obligation to file copies of accounting documents**

**48.**—(1) The following provisions apply in relation to the obligations imposed by regulation 45 or 46.

(2) Where the institution is incorporated or otherwise formed in an EEA State—

- (a) it is not required to deliver copies of accounting documents if its parent law does not require it to deliver accounting documents, and
- (b) it may discharge its obligation by delivering accounting documents without an auditor's report if its parent law does not require it to have its accounts audited.

(3) Where the institution's parent law permits it to discharge an obligation with respect to the disclosure of accounting documents by disclosing documents in a modified form, it may discharge its obligation under regulations 45 and 46 by delivering copies of documents modified as permitted by that law.

### **Exception where documents available for inspection**

**49.**—(1) Neither regulation 45 nor regulation 46 requires an institution to deliver copies of accounting documents if at the end of the period allowed for compliance with those regulations—

- (a) it is not required by its parent law to register them,
- (b) they are made available for inspection at each branch of the institution in the United Kingdom, and
- (c) copies of them are available on request at a cost not exceeding the cost of supplying them.

(2) Where—

- (a) by virtue of paragraph (1) an institution is not required to deliver documents under regulation 45 or 46, and
- (b) any of the conditions specified in paragraph (1) ceases to be met,

the institution must deliver the documents to the registrar for registration within seven days of the condition ceasing to be met.

### **Penalty for non-compliance**

**50.**—(1) If any of the requirements of this Chapter are not complied with before the end of the period allowed for delivery of copies of accounting documents, an offence is committed by every person who immediately before the end of that period was a director of the institution.

(2) It is a defence for a person charged with such an offence to prove that they took all reasonable steps for securing that those requirements would be complied with before the end of that period.

(3) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 5 on the standard scale.