COMPANIES REGULATIONS 2020

(CONSOLIDATED VERSION FEBRUARY 2024)

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COMPANIES REGULATIONS 2020

Regulations to make provision for the formation and registration of companies in the Abu Dhabi Global Market.

Date of Enactment: 29 April 2020

The Board of Directors of the Abu Dhabi Global Market, in exercise of its powers under Article 6(1) of Law No. 4 of 2013 concerning the Abu Dhabi Global Market issued by His Highness the Ruler of the Emirate of Abu Dhabi, hereby enacts the following Regulations–

PART 1

GENERAL INTRODUCTORY PROVISIONS

Companies

1. Companies

(1) In these Regulations, unless the context otherwise requires "company" means a company formed or registered under these Regulations (whether or not it was incorporated under these Regulations).

(2) Federal Law No. 8 of 1984 of the United Arab Emirates (as amended from time to time) shall not apply to companies formed or registered under these Regulations.

Types of company

2. Limited and unlimited companies

(1) A company is a "limited company" if the liability of its members is limited by its constitution.

It may be limited by shares or limited by guarantee.

(2) If their liability is limited to the amount, if any, unpaid on the shares held by them, the company is "limited by shares".

(3) If their liability is limited to such amount as the members undertake to contribute to the assets of the company in the event of its being wound up, the company is "limited by guarantee".

(4) If there is no limit on the liability of its members, the company is an "unlimited company".

3. Private and public companies

(1) A "private company" is any company that is not a public company.

(2) A "public company" is a company limited by shares–

(a) whose certificate of incorporation states that it is a public company, and

(b) in relation to which the requirements of these Regulations as to registration or re-registration as a public company have been complied with.

(3) A "private company" may apply to the Registrar to be registered as a restricted scope company at its formation.

(4) A company may only be registered as a restricted scope company if–

(a) it is a subsidiary undertaking of another body corporate that prepares and publishes group accounts under these Regulations or such other enactment as the Registrar may recognise for the purposes of this section,

(b) it is a subsidiary undertaking of a body corporate that is incorporated by a Federal Law or by a law of any Emirate of the United Arab Emirates, or

(c) it is directly or indirectly wholly-owned by an applicant (the "founding member") who is–

(i) one person, or

(ii) a group of persons who are members of the same family and approved by the Registrar exercising his discretion.

(5) For the purposes of section 3(4)(c), members of the same family shall mean:

(a) founding member (who must, at the time of registration, be a natural person and a member of the company);

(b) each parent of the founding member;

(c) any spouse of the founding member;

(d) any descendant of the founding member; and

(e) any spouse of a descendant of the founding member

(6) For the purpose of section 3(5)(d), the term "descendant" includes a child, grandchild, great grandchild, step-child and adopted child.

(7) A "step-child" means a person who is, to the satisfaction of the Registrar, the child of a founding member's spouse and who is not the child of the founding member.

(8) An "adopted child" means a person who is treated to the satisfaction of the Registrar as the child of the founding member, or any member of the same family, under the laws of any jurisdiction.

(9) In the case of any uncertainty as to whether an individual is a member of the same family, the Registrar will determine the issue in his discretion and may require such supporting documentation as it considers appropriate.

(10) For the major differences between private and public companies, see Part 19.

4. Companies may not be limited by guarantee and have share capital

(1) A company cannot be formed as, or become, a company limited by guarantee with a share capital.

(2) Any provision in the constitution of a company limited by guarantee that purports to divide the company's undertaking into shares or interests is a provision for a share capital, and the company shall be deemed a company limited by shares.

PART 2

COMPANY FORMATION

General

5. Method of forming company

(1) A company is formed under these Regulations by one or more persons–

(a) confirming to the Registrar in an application for registration of the company that they–

(i) wish to form a company under these Regulations, and

(ii) agree to become members of the company and, in the case of a company that is to have a share capital, to take at least one share each, and

(b) complying with the requirements of these Regulations as to registration (see sections 6 (registration documents) to 10 (statement of compliance)).

(2) A company may not be so formed for an unlawful purpose.

Requirements for registration

6. Registration documents

(1) The application for registration of the company must be delivered to the Registrar together with the documents required by this section and a statement of compliance (see section 10 (statement of compliance)).

(2) The application for registration must state–

(a) the company's proposed name,

(b) whether the liability of the members of the company is to be limited, and if so whether it is to be limited by shares or by guarantee, and

(c) whether the company is to be a private or a public company.

(3) The application must contain–

(a) in the case of a company that is to have a share capital, a statement of capital and initial shareholdings (see section 7 (statement of capital and initial shareholdings)),

(b) in the case of a company that is to be limited by guarantee, a statement of guarantee (see section 8 (statement of guarantee)),

(c) a statement of the company's proposed officers (see section 9 (statement of proposed officers))

(ca) a statement of initial beneficial ownership and control (see section 9A (statement of initial beneficial ownership and control),

(d) the trade name reservation documents required under section 47 (reservation of name), and

(e) such other documents and information as the Registrar may require in respect of a particular application under this section.

(4) The application must also contain–

(a) a statement of the intended address of the company's registered office in the Abu Dhabi Global Market,

(b) a copy of any proposed articles of association (to the extent that these are not supplied by the default application of model articles (see section 18 (default application of model articles))), and

(c) confirmation, in the case of a private company, as to whether that company is to be registered as a restricted scope company.

(5) If the application is delivered by a person as agent for the shareholders, it must state his name and address.

7. Statement of capital and initial shareholdings

(1) The statement of capital and initial shareholdings required to be delivered in the case of a company that is to have a share capital must comply with this section.

(2) It must state–

(a) the total number of shares of the company to be taken on formation by the initial members,

(b) for each class of shares–

(i) prescribed particulars of the rights attached to the shares, and

(ii) the total number of shares of that class, and

(c) the amount to be paid up and the amount (if any) to be unpaid on each share.

(3) It must contain such information as may be prescribed for the purpose of identifying the initial members.

(4) It must state, with respect to each initial member–

(a) the number and class of shares to be taken by him on formation, and

(b) the amount to be paid up and the amount (if any) to be unpaid on each share.

(5) Where a member is to take shares of more than one class, the information required under subsection (4)(a) is required for each class.

8. Statement of guarantee

(1) The statement of guarantee required to be delivered in the case of a company that is to be limited by guarantee must comply with this section.

(2) It must contain such information as may be prescribed for the purpose of identifying the initial members.

(3) It must state that each member undertakes that, if the company is wound up while he is a member, or within one year after he ceases to be a member, he will contribute to the assets of the company such amount as may be required for–

(a) payment of the debts and liabilities of the company contracted before he ceases to be a member,

(b) payment of the costs, charges and expenses of winding up, and

(c) adjustment of the rights of the contributories among themselves,

not exceeding a specified amount.

9. Statement of proposed officers

(1) The statement of the company's proposed officers required to be delivered to the Registrar must contain the required particulars of–

(a) the person who is, or persons who are, to be the first director or directors of the company,

(b) in the case of a company that is to be a private company, any person who is (or any persons who are) to be the first secretary (or joint secretaries) of the company (if any), and

(c) in the case of a company that is to be a public company, the person who is (or the persons who are) to be the first secretary (or joint secretaries) of the company.

(2) The required particulars are the particulars that will be required to be stated–

(a) in the case of a director, in the company's register of directors and register of directors' residential addresses (see sections 153 (register of directors) to 157 (duty to notify Registrar of changes)), and

(b) in the case of a secretary, in the company's register of secretaries (see sections 292 (duty to keep register of secretaries) to 295 (particulars of secretaries to be registered: corporate secretaries and firms)).

(3) The statement must also contain a consent by each of the persons named as a director, as secretary or as one of joint secretaries, to act in the relevant capacity. If all the partners in a firm are to be joint secretaries, consent may be given by one partner on behalf of all of them.

9A. Statement of initial beneficial ownership and control

(1) The statement of initial beneficial ownership and control required to be delivered to the Registrar must state whether, on incorporation, there will be any person who will be considered a beneficial owner of the company.

(2) The statement of initial beneficial ownership and control must contain the required particulars as prescribed under section 2 of the Beneficial Ownership and Control Regulations 2018.

(3) For the purposes of this section, "beneficial owner" shall have the meaning prescribed to it in Schedule 1 (*Meaning of Beneficial Owner*) of the Beneficial Ownership and Control Regulations 2018.

10. Statement of compliance

(1) The statement of compliance required to be delivered to the Registrar is a statement that the requirements of these Regulations as to registration have been complied with.

(2) The Registrar may accept the statement of compliance as sufficient evidence of compliance.

Registration and its effect

11. Registration

If the Registrar is satisfied that the requirements of these Regulations as to registration are complied with, he may register the documents delivered to him.

12. Issue of certificate of incorporation

(1) On the registration of a company, the Registrar shall give a certificate that the company is incorporated.

(2) The certificate must state–

(a) the name and registered number of the company,

(b) the date of its incorporation,

(c) whether it is a limited or unlimited company,

(d) if it is a limited company, whether it is limited by shares or limited by guarantee,

(e) whether it is a private or a public company, and

(f) if it is a private company, whether it is a restricted scope company.

(3) The certificate is conclusive evidence that the requirements of these Regulations as to registration have been complied with and that the company is duly registered under these Regulations.

(4) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

13. Effect of registration

(1) The registration of a company has the following effects as from the date of incorporation–

(a) the initial members, together with such other persons as may from time to time become members of the company, are a body corporate by the name stated in the certificate of incorporation,

(b) that body corporate is capable of exercising all the functions of an incorporated company,

(c) the status and registered office of the company are as stated in, or in connection with, the application for registration,

(d) in the case of a company having a share capital, the initial members become holders of the shares specified in the statement of capital and initial shareholdings, and

(e) the proposed officers of the company are deemed to have been appointed to that office.

14. Commercial Licence

An application for registration under section 6 (registration documents) shall, if required by the Commercial Licensing Regulations 2015, be accompanied by an application to the Registrar for a licence to carry on any controlled activities under those regulations. In this section, "controlled activities" means any activity which is specified as a controlled activity by the Board for the purposes of the Commercial Licensing Regulations 2015.

PART 3

A COMPANY'S CONSTITUTION

CHAPTER 1

INTRODUCTORY

15. A company's constitution

(1) Unless the context otherwise requires, references in these Regulations to a company's constitution include–

(a) the company's articles, and

(b) any resolutions and agreements to which Chapter 3 applies (see section 26 (resolutions and agreements affecting a company's constitution)).

CHAPTER 2

ARTICLES OF ASSOCIATION

General

16. Articles of association

(1) A company must have articles of association prescribing regulations for the company.

(2) Unless it is a company to which model articles apply by virtue of section 18 (default application of model articles), it must register articles of association.

(3) Articles of association registered by a company must–

(a) be contained in a single document, and

(b) be divided into paragraphs numbered consecutively.

(4) References in these Regulations to a company's "articles" are to its articles of association.

17. Power of Board to prescribe model articles

(1) The Board may make rules prescribing model articles of association for companies.

(2) Different model articles may be prescribed for different descriptions of company.

(3) A company may adopt all or any of the provisions of model articles.

(4) Any amendment of model articles by rules made under this section does not affect a company registered before the amendment takes effect.

"Amendment" here includes addition, alteration or repeal.

18. Default application of model articles

(1) On the formation of a limited company–

(a) if articles are not registered, or

(b) if articles are registered, in so far as they do not exclude or modify the relevant model articles,

the relevant model articles (so far as applicable) form part of the company's articles in the same manner and to the same extent as if articles in the form of those articles had been duly registered.

(2) The "relevant model articles" means the model articles prescribed for a company of that description as in force at the date on which the company is registered.

Alteration of articles

19. Amendment of articles

A company may amend its articles by special resolution.

20. Entrenched provisions of the articles

(1) A company's articles may contain provision ("provision for entrenchment") to the effect that specified provisions of the articles may be amended or repealed only if conditions are met, or procedures are complied with, that are more restrictive than those applicable in the case of a special resolution.

(2) Provision for entrenchment may only be made–

(a) in the company's articles on formation, or

(b) by an amendment of the company's articles agreed to by all the members of the company.

(3) Provision for entrenchment does not prevent amendment of the company's articles–

(a) by agreement of all the members of the company, or

(b) by order of a Court or other authority having power to alter the company's articles.

(4) Nothing in this section affects any power of a Court or other authority to alter a company's articles.

21. Notice to Registrar of existence of restriction on amendment of articles

(1) Where a company's articles–

(a) on formation contain provision for entrenchment,

(b) are amended so as to include such provision, or

(c) are altered by order of a Court or other authority so as to restrict or exclude the power of the company to amend its articles,

the company must give notice of that fact to the Registrar.

(2) Where a company's articles–

(a) are amended so as to remove provision for entrenchment, or

(b) are altered by order of a Court or other authority–

(i) so as to remove such provision, or

(ii) so as to remove any other restriction on, or any exclusion of, the power of the company to amend its articles,

the company must give notice of that fact to the Registrar.

22. Statement of compliance where amendment of articles restricted

(1) This section applies where a company's articles are subject–

(a) to provision for entrenchment, or

(b) to an order of a Court or other authority restricting or excluding the company's power to amend the articles.

(2) If the company–

(a) amends its articles, and

(b) is required to send to the Registrar a document making or evidencing the amendment,

the company must deliver with that document a statement of compliance.

(3) The statement of compliance required is a statement certifying that the amendment has been made in accordance with the company's articles and, where relevant, any applicable order of a Court or other authority.

(4) The Registrar may rely on the statement of compliance as sufficient evidence of the matters stated in it.

23. Effect of alteration of articles on company's members

(1) A member of a company is not bound by an alteration to its articles after the date on which he became a member, if and so far as the alteration–

(a) requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, or

(b) in any way increases his liability as at that date to contribute to the company's share capital or otherwise to pay money to the company.

(2) Subsection (1) does not apply in a case where the member agrees in writing, either before or after the alteration is made, to be bound by the alteration.

24. Registrar to be sent copy of amended articles

(1) Where a company amends its articles it must send to the Registrar a copy of the articles as amended not later than 14 days after the amendment takes effect.

(2) This section does not require a company to set out in its articles any provisions of model articles that–

(a) are applied by the articles, or

(b) apply by virtue of section 18 (default application of model articles).

(3) If a company fails to comply with this section a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) is liable for a level 2 fine.

25. Registrar's notice to comply in case of failure with respect to amended articles

(1) If it appears to the Registrar that a company has failed to comply with any requirement under these Regulations requiring it–

(a) to send to the Registrar a document making or evidencing an alteration in the company's articles, or

(b) to send to the Registrar a copy of the company's articles as amended,

the Registrar may give notice to the company requiring it to comply.

(2) The notice must–

(a) state the date on which it is issued, and

(b) require the company to comply within one month from that date.

(3) If the company does not comply with the notice within the specified time, it is liable to a level 1 fine.

CHAPTER 3

RESOLUTIONS AND AGREEMENTS AFFECTING A COMPANY'S CONSTITUTION

26. Resolutions and agreements affecting a company's constitution

(1) This Chapter applies to–

(a) any special resolution,

(b) any resolution or agreement agreed to by all the members that, if not so agreed to, would not have been effective for its purpose unless passed as a special resolution,

(c) any resolution or agreement agreed to by all the members of a class of shareholders that, if not so agreed to, would not have been effective for its purpose unless passed by some particular majority or otherwise in some particular manner, and

(d) any resolution or agreement that effectively binds all members of a class of shareholders though not agreed to by all those members.

(2) References in subsection (1) to a member of a company, or of a class of members of a company, do not include the company itself where it is such a member by virtue only of its holding shares as treasury shares.

27. Copies of resolutions or agreements to be forwarded to Registrar

(1) A copy of every resolution or agreement to which this Chapter applies, or (in the case of a resolution or agreement that is not in writing) a written memorandum setting out its terms, must be forwarded to the Registrar within 14 days after it is passed or made.

(2) If a company fails to comply with this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of it who is in default.

(3) A person who commits the contravention referred to in subsection (2) shall be liable to a level 1 fine.

(4) For the purposes of this section, a liquidator of the company is treated as an officer of it.

CHAPTER 4

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Statement of company's objects

28. Statement of company's objects

(1) Unless a company's articles specifically restrict the objects of the company, its objects are unrestricted.

(2) Where a company amends its articles so as to add, remove or alter a statement of the company's objects–

(a) it must give notice to the Registrar,

(b) on receipt of the notice, the Registrar shall register it, and

(c) the amendment is not effective until entry of that notice on the register.

(3) Any such amendment does not affect any rights or obligations of the company or render defective any legal proceedings by or against it.

Other provisions with respect to a company's constitution

29. Constitutional documents to be provided to members

(1) A company must, on request by any member, send to him the following documents–

(a) an up-to-date copy of the company's articles,

(b) a copy of any resolution or agreement relating to the company to which Chapter 3 applies (resolutions and agreements affecting a company's constitution) and that is for the time being in force,

(c) a copy of any document required to be sent to the Registrar under section 31(2)(a) (notice to Registrar where company's constitution altered by order),

(d) a copy of any Court order under section 805 (Court sanction for compromise or arrangement) or section 806 (powers of Court to facilitate reconstruction or amalgamation or merger or division),

(e) a copy of any Court order under section 860 (protection of members against unfair prejudice: powers of the Court) that alters the company's constitution,

(f) a copy of the company's current certificate of incorporation, and of any past certificates of incorporation,

(g) in the case of a company with a share capital, a current statement of capital,

(h) in the case of a company limited by guarantee, a copy of the statement of guarantee.

(2) The statement of capital required by subsection (1)(g) is a statement of–

(a) the total number of shares of the company,

(b) for each class of shares–

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(c) the amount paid up and the amount (if any) unpaid on each share.

(3) If a company makes default in complying with this section, a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 2 fine.

30. Effect of company's constitution

(1) The provisions of a company's constitution bind the company and its members to the same extent as if there were covenants on the part of the company and of each member to observe those provisions.

(2) Money payable by a member to the company under its constitution is a debt due from him to the company in the nature of an ordinary contract debt.

31. Notice to Registrar where company's constitution altered by order

(1) Where a company's constitution is altered by an order of a Court or other authority, the company must give notice to the Registrar of the alteration not later than 14 days after the alteration takes effect.

(2) The notice must be accompanied by–

(a) a copy of the order, and

(b) if the order amends–

(i) the company's articles, or

(ii) a resolution or agreement to which Chapter 3 applies (resolutions and agreements affecting the company's constitution),

a copy of the company's articles, or the resolution or agreement in question, as amended.

(3) If a company fails to comply with this section a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 1 fine.

(5) This section does not apply where provision is made by another law or regulation applicable to the Abu Dhabi Global Market for the delivery to the Registrar of a copy of the order in question.

32. Documents to be incorporated in or accompany copies of articles issued by company

(1) Every copy of a company's articles issued by the company must be accompanied by–

(a) a copy of any resolution or agreement relating to the company to which Chapter 3 applies (resolutions and agreements affecting a company's constitution),

(b) a copy of any order required to be sent to the Registrar under section 31(2)(a) (notice to Registrar where company's constitution altered by order).

(2) This does not require the articles to be accompanied by a copy of a document or by a statement if–

(a) the effect of the resolution, agreement, or order (as the case may be) on the company's constitution has been incorporated into the articles by amendment, or

(b) the resolution, agreement, or order (as the case may be) is not for the time being in force.

(3) If the company fails to comply with this section, a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 1 fine.

(5) For the purposes of this section, a liquidator of the company is treated as an officer of it.

33. Right to participate in profits otherwise than as member void

In the case of a company limited by guarantee any provision in the company's articles, or in any resolution of the company, purporting to give a person a right to participate in the divisible profits of the company otherwise than as a member is void.

34. Application to single member companies of rules of law

Any rule of law applicable in the Abu Dhabi Global Market to companies formed by two or more persons or having two or more members applies with any necessary modification in relation to a company formed by one person or having only one person as a member.

PART 4

A COMPANY'S CAPACITY AND RELATED MATTERS

Capacity of company and power of directors to bind it

35. A company's capacity

The validity of an act done by a company shall not be called into question on the ground of lack of capacity by reason of anything in the company's constitution.

36. Power of directors to bind the company

(1) In favour of a person dealing with a company in good faith, the power of the directors to bind the company, or authorise others to do so, is deemed to be free of any limitation under the company's constitution.

(2) For this purpose–

(a) a person "deals with" a company if he is a party to any transaction or other act to which the company is a party,

(b) a person dealing with a company–

(i) is not bound to enquire as to any limitation on the powers of the directors to bind the company or authorise others to do so,

(ii) is presumed to have acted in good faith unless the contrary is proved, and

(iii) is not to be regarded as acting in bad faith by reason only of his knowing that an act is beyond the powers of the directors under the company's constitution.

(3) The references above to limitations on the directors' powers under the company's constitution include limitations deriving–

(a) from a resolution of the company or of any class of shareholders, or

(b) from any agreement between the members of the company or of any class of shareholders.

(4) This section does not affect any right of a member of the company to bring proceedings to restrain the doing of an action that is beyond the powers of the directors.

But no such proceedings lie in respect of an act to be done in fulfilment of a legal obligation arising from a previous act of the company.

(5) This section does not affect any liability incurred by the directors, or any other person, by reason of the directors' exceeding their powers.

(6) This section has effect subject to section 37 (constitutional limitations: transactions including directors or their associates).

37. Constitutional limitations: transactions involving directors or their associates

(1) This section applies to a transaction if or to the extent that its validity depends on section 36 (power of directors to bind the company).

Nothing in this section shall be read as excluding the operation of any rule of law applicable in the Abu Dhabi Global Market by virtue of which the transaction may be called in question or any liability to the company may arise.

(2) Where–

(a) a company enters into such a transaction, and

(b) the parties to the transaction include–

(i) a director of the company or of its holding company, or

(ii) a person connected with any such director,

the transaction is voidable at the instance of the company.

(3) Whether or not it is avoided, any such party to the transaction as is mentioned in subsection (2)(b)(i) or (ii), and any director of the company who authorised the transaction, is liable–

(a) to account to the company for any gain he has made directly or indirectly by the transaction, and

(b) to indemnify the company for any loss or damage resulting from the transaction.

(4) The transaction ceases to be voidable if–

(a) restitution of any money or other asset which was the subject matter of the transaction is no longer possible, or

(b) the company is indemnified for any loss or damage resulting from the transaction, or

(c) rights acquired bona fide for value and without actual notice of the directors exceeding their powers by a person who is not party to the transaction would be affected by the avoidance, or

(d) the transaction is affirmed by the company.

(5) A person other than a director of the company is not liable under subsection (3) if he shows that at the time the transaction was entered into he did not know that the directors were exceeding their powers.

(6) Nothing in the preceding provisions of this section affects the rights of any party to the transaction not within subsection (2)(b)(i) or (ii). The Court may, on the application of the company or any such party, make an order affirming, severing or setting aside the transaction on such terms as appear to the Court to be just.

(7) In this section–

(a) "transaction" includes any act, and

(b) the reference to a person connected with a director has the same meaning as in Part 10 (company directors).

Formalities of doing business under the law of the Abu Dhabi Global Market

38. Contracts

(1) Under the law of the Abu Dhabi Global Market a contract may be made–

(a) by a company, by writing under its common seal, or

(b) on behalf of a company, by a person acting under its authority, express or implied.

(2) Under the law of the Abu Dhabi Global Market a contract may be made by a non-ADGM company–

(a) by writing under its common seal or in any manner permitted by the laws of the territory in which the non-ADGM company is incorporated for the execution of documents by such non-ADGM company, and

(b) on behalf of that non-ADGM company, by any person who, in accordance with the laws of the territory in which the company is incorporated, is acting under the authority (express or implied) of that non-ADGM company.

(3) Any formalities required by law in the case of a contract made by an individual also apply, unless a contrary intention appears, to a contract made by or on behalf of a company or non-ADGM company.

39. Execution of documents in the Abu Dhabi Global Market

(1) Under the law of the Abu Dhabi Global Market a document is executed by a company–

(a) by the affixing of its common seal, or

(b) by signature in accordance with the following provisions.

(2) A document is validly executed by a company if it is signed on behalf of the company–

(a) by two authorised signatories, or

(b) by a director of the company in the presence of a witness who attests the signature.

(3) The following are "authorised signatories" for the purposes of subsection (2)–

(a) every director of the company, and

(b) in the case of a private company with a secretary or a public company, the secretary (or any joint secretary) of the company.

(4) A document signed in accordance with subsection (2) and expressed, in whatever words, to be executed by the company has the same effect as if executed under the common seal of the company.

(5) Under the law of the Abu Dhabi Global Market a document is executed by a non-ADGM company–

(a) by the affixing of its common seal, or

(b) if it is executed in any manner permitted by the laws of the territory in which the non-ADGM company is incorporated for the execution of documents by such non-ADGM company.

(6) A document which–

(a) is signed by a person who, in accordance with the laws of the territory in which the non-ADGM company is incorporated, is acting under the authority (express or implied) of the non-ADGM company, and

(b) is expressed (in whatever form of words) to be executed by the non-ADGM company,

has the same effect in relation to that non-ADGM company as it would have in relation to a company formed or registered under these Regulations if executed under the common seal of a company so formed or registered.

(7) In favour of a purchaser a document is deemed to have been duly executed by a company or non-ADGM company if it purports to be signed in accordance with subsection (2) (in the case of a company) or (5) (in the case of a non-ADGM company).

A "purchaser" means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquires an interest in property.

(8) Where a document is to be signed by a person on behalf of more than one company or non-ADGM company, it is not duly signed by that person for the purposes of this section unless he signs it separately in each capacity.

(9) References in this section to a document being (or purporting to be) signed by a director, secretary or person who is acting under the authority (express or implied) of the relevant company or non-ADGM company are to be read, in a case where that person is a firm, as references to its being (or purporting to be) signed by an individual authorised by the firm to sign on its behalf.

(10) This section applies to a document that is (or purports to be) executed by a company or non-ADGM company in the name of or on behalf of another person whether or not that person is also a company or non-ADGM company.

40. Common seal

(1) A company may have a common seal, but need not have one.

(2) A company which has a common seal shall have its name engraved in legible characters on the seal.

(3) If a company fails to comply with subsection (2) an offence is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(4) An officer of a company, or a person acting on behalf of a company, commits a contravention of these regulations if he uses, or authorises the use of, a seal purporting to be a seal of the company on which its name is not engraved as required by subsection (2).

(5) A person who commits a contravention under this section is liable to a level 1 fine.

41. Execution of deeds

(1) A document is validly executed by a company as a deed for the purposes of laws applicable in the Abu Dhabi Global Market if, and only if–

(a) it is duly executed by that company, and

(b) it is delivered as a deed.

(2) A document is validly executed by a non-ADGM company as a deed for the purposes of laws applicable in the Abu Dhabi Global Market if, and only if–

(a) it is duly executed by that non-ADGM company, and

(b) it is delivered as a deed.

(3) For the purposes of subsection (1)(b) and 2(b) a document is presumed to be delivered upon its being executed, unless a contrary intention is proved.

42. Execution of deeds or other documents by attorney

(1) Under the law of the Abu Dhabi Global Market a company may, by instrument executed as a deed, empower a person, either generally or in respect of specified matters, as its attorney to execute deeds or other documents on its behalf.

(2) A deed or other document so executed, whether in the Abu Dhabi Global Market or elsewhere, has effect as if executed by the company.

Other matters

43. Official seal for use outside of the Abu Dhabi Global Market

(1) A company that has a common seal may have an official seal for use outside the Abu Dhabi Global Market.

(2) The official seal must be a facsimile of the company's common seal, with the addition on its face of the place or places where it is to be used.

(3) The official seal when duly affixed to a document has the same effect as the company's common seal.

(4) A company having an official seal for use outside the Abu Dhabi Global Market may by writing under its common seal, authorise any person appointed for the purpose to affix the official seal to any deed or other document to which the company is party.

(5) As between the company and a person dealing with such an agent, the agent's authority continues–

(a) during the period mentioned in the instrument conferring the authority, or

(b) if no period is mentioned, until notice of the revocation or termination of the agent's authority has been given to the person dealing with him.

(6) The person affixing the official seal must certify in writing on the deed or other document to which the seal is affixed the date on which, and place at which, it is affixed.

44. Official seal for share certificates etc

(1) A company that has a common seal may have an official seal for use–

(a) for sealing securities issued by the company, or

(b) for sealing documents creating or evidencing securities so issued.

(2) The official seal–

(a) must be a facsimile of the company's common seal, with the addition on its face of the word "Securities", and

(b) when duly affixed to the document has the same effect as the company's common seal.

45. Pre-incorporation contracts, deeds and obligations

(1) A contract that purports to be made by or on behalf of a company at a time when the company has not been formed has effect, subject to any agreement to the contrary, as one made with the person purporting to act for the company or as agent for it, and he is personally liable on the contract accordingly.

(2) Subsection (1) applies to the making of a deed under the law of the Abu Dhabi Global Market as it applies to the making of a contract.

46. Bills of exchange and promissory notes

A bill of exchange or promissory note is deemed to have been made, accepted or endorsed on behalf of a company if made, accepted or endorsed in the name of, or by or on behalf or on account of, the company by a person acting under its authority.

PART 5

A COMPANY'S NAME

CHAPTER 1

GENERAL REQUIREMENTS

47. Reservation of name

(1) Every application for the registration of a company under these Regulations must be preceded or accompanied by an application to reserve a proposed name of that company.

(2) The Registrar may make rules and may issue guidance about applications made under sub-section (1). The rules may, in particular, make provision–

(a) as to the period of time for which a proposed name is so reserved and the process for extending that period of time,

(b) for prohibited or restricted names,

(c) as to the form and content of an application, and

(d) for fees to be charged.

48. Prohibited names

(1) A company must not be registered under these Regulations by a name if, in the opinion of the Registrar–

(a) its use by the company would constitute a contravention of these Regulations or any other enactment or rule applicable in the Abu Dhabi Global Market, or

(b) it is offensive.

49. Names suggesting connection with government or public authority

(1) The approval of the Registrar is required for a company to be registered under these Regulations with a name that would be likely to give the impression that the company is connected with–

(a) the Federal Government of the United Arab Emirates or the Government of any Emirate within the United Arab Emirates,

(b) a municipality within the United Arab Emirates,

(c) any public authority specified for the purposes of this section pursuant to rules made by the Board, or

(d) any other person registered with any governmental authority of the United Arab Emirates or of any Emirate within the United Arab Emirates.

(2) For the purposes of this section "public authority" includes any person or body having functions of a public nature.

50. Other sensitive words or expressions

The approval of the Registrar is required for a company to be registered under these Regulations by a name that includes a word or expression for the time being specified in rules made by the Board under this section.

51. Permitted characters etc

(1) The Board may make rules–

(a) as to the letters or other characters, signs or symbols (including accents and other diacritical marks) and punctuation that may be used in the name of a company registered under these Regulations, and

(b) specifying a standard style or format for the name of a company for the purposes of registration.

(2) The rules may prohibit the use of specified characters, signs or symbols when appearing in a specified position (in particular, at the beginning of a name).

(3) A company may not be registered under these Regulations by a name that consists of or includes anything that is not permitted in accordance with rules made under this section.

(4) In this section "specified" means specified in rules made under this section.

52. Public limited companies

The name of a limited company that is a public company must end with "public limited company", "PUBLIC LIMITED COMPANY", "plc", "PLC", "p.l.c." or "P.L.C.".

53. Private limited companies

(1) The name of a limited company that is a private company must end with "limited", "LIMITED", "ltd", "LTD", "l.t.d.", or "L.T.D.".

(2) The name of a limited company that is a restricted scope company must be followed by the word "Restricted", "Restricted Scope Company" or "RSC" before ending with one of the suffixes provided for by subsection (1).

54. Inappropriate use of indications of company type or legal form

(1) The Board may make rules prohibiting the use in a company name of specified words, expressions or other indications–

(a) that are associated with a particular type of company or form of organisation, or

(b) that are similar to words, expressions or other indications associated with a particular type of company or form of organisation.

(2) The rules may prohibit the use of words, expressions or other indications–

(a) in a specified part, or otherwise than in a specified part, of a company's name,

(b) in conjunction with, or otherwise than in conjunction with, such other words, expressions or indications as may be specified.

(3) A company must not be registered under these Regulations by a name that consists of or includes anything prohibited by rules made under this section.

(4) In this section "specified" means specified in rules made under this section.

CHAPTER 2

SIMILARITY TO OTHER NAMES

55. Name not to be the same as another on the Registrar's register of company names

(1) A company must not be registered under these Regulations with a name that is the same as another name appearing in the Registrar's register of company names.

(2) The Board may make rules supplementing this section.

(3) The rules may make provision–

(a) as to matters that are to be disregarded, and

(b) as to words, expressions, signs or symbols that are, or are not, to be regarded as the same,

for the purposes of this section.

(4) The rules may provide–

(a) that registration by a name that would otherwise be prohibited under this section is permitted–

(i) in specified circumstances, or

(ii) with specified consent, and

(b) that if those circumstances obtain or that consent is given at the time a company is registered by a name, a subsequent change of circumstances or withdrawal of consent does not affect the registration.

(5) In this section "specified" means specified in the rules made under this section.

56. Power to direct change of name in case of similarity to existing name

(1) The Registrar may direct a company to change its name if it has been registered in a name that is the same as or, in the opinion of the Registrar, too like–

(a) the name of the Federal Government of the United Arab Emirates or the Government of any Emirate within the United Arab Emirates,

(b) the name of a municipality within the United Arab Emirates,

(c) the name of any public authority specified for the purposes of this section pursuant to rules made by the Board,

(d) the name of any other person registered with any governmental authority of the United Arab Emirates or of any Emirate within the United Arab Emirates,

(e) a name appearing at the time of the registration in the Registrar's register of company names, or

(f) a name that should have appeared in the Registrar's register of company names at that time.

(2) The Registrar may make rules supplementing this section.

(3) The rules may make provision–

(a) as to matters that are to be disregarded, and

(b) as to words, expressions, signs or symbols that are, or are not, to be regarded as the same,

for the purposes of this section.

(4) The rules may provide–

(a) that no direction is to be given under this section in respect of a name–

(i) in specified circumstances, or

(ii) if specified consent is given, and

(b) that a subsequent change of circumstances or withdrawal of consent does not give rise to grounds for a direction under this section.

(5) In this section "specified" means specified in rules made under this section.

57. Direction to change name: supplementary provisions

(1) The following provisions have effect in relation to a direction under section 56 (power to direct change of name in case of similarity to existing name).

(2) Any such direction–

(a) must be given within twelve months of the company's registration by the name in question, and

(b) must specify the period within which the company is to change its name.

(3) The Registrar may by a further direction extend that period. Any such direction must be given before the end of the period for the time being specified.

(4) A direction under section 56 (power to direct change of name in case of similarity to existing name) or this section must be in writing.

(5) If a company fails to comply with the direction, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(6) A person who commits the contravention referred to in subsection (5) shall be liable to a fine of up to level 4.

58. Objection to company's registered name

(1) A person ("the applicant") may object to a company's registered name on the ground–

(a) that it is the same as a name associated with the applicant in which he has goodwill, or

(b) that it is sufficiently similar to such a name that its use in the Abu Dhabi Global Market would be likely to mislead by suggesting a connection between the company and the applicant.

(2) The objection must be made by application to the Registrar (see section 59 (procedural rules)).

(3) The company concerned shall be the primary respondent to the application. Any of its members or directors may be joined as respondents.

(4) If the ground specified in subsection (1)(a) or (b) is established, it is for the respondents to show–

(a) that the name was registered before the commencement of the activities on which the applicant relies to show goodwill, or

(b) that the company–

(i) is operating under the name, or

(ii) is proposing to do so and has incurred substantial start-up costs in preparation, or

(iii) was formerly operating under the name and is now dormant, or

(c) that the name was registered in the ordinary course of a company formation business and the company is available for sale to the applicant on the standard terms of that business, or

(d) that the name was adopted in good faith, or

(e) that the interests of the applicant are not adversely affected to any significant extent.

If none of those is shown, the objection shall be upheld.

(5) If the facts mentioned in subsection (4)(a), (b) or (c) are established, the objection shall nevertheless be upheld if the applicant shows that the main purpose of the respondents (or any of them) in registering the name was to obtain money (or other consideration) from the applicant or prevent him from registering the name.

(6) If the objection is not upheld under subsection (4) or (5), it shall be dismissed.

(7) In this section "goodwill" includes reputation of any description.

59. Procedural rules

(1) The Board may make rules about proceedings brought under section 58 (objection to company's registered name).

(2) The rules may, in particular, make provision–

(a) as to how an application is to be made and the form and content of an application or other documents,

(b) for fees to be charged,

(c) about the service of documents and the consequences of failure to serve them,

(d) as to the form and manner in which evidence is to be given,

(e) for circumstances in which hearings are required and those in which they are not,

(f) setting time limits for anything required to be done in connection with the proceedings (and allowing for such limits to be extended, even if they have expired),

(g) enabling the Registrar to strike out an application, or any defence, in whole or in part–

(i) on the ground that it is vexatious, has no reasonable prospect of success or is otherwise misconceived, or

(ii) for failure to comply with the requirements of the rules,

(h) conferring power to order security for costs,

(i) as to how far proceedings are to be held in public,

(j) requiring one party to bear the costs of another and as to the taxing the amount of such costs.

60. Decision of Registrar to be made available to public

(1) The Registrar must, within 90 days of determining an application under section 58 (objection to company's registered name), make his decision and his reasons for it available to the public.

(2) He may do so by means of a website or by such other means as appear to him to be appropriate.

61. Order requiring name to be changed

(1) If an application under section 58 (objection to company's registered name) is upheld, the Registrar shall serve notice–

(a) requiring the respondent company to change its name to one that is not an offending name, and

(b) requiring all the respondents–

(i) to take all such steps as are within their power to make, or facilitate the making, of that change, and

(ii) not to cause or permit any steps to be taken calculated to result in another company being registered with a name that is an offending name.

(2) An "offending name" means a name that, by reason of its similarity to the name associated with the applicant in which he claims goodwill, would be likely–

(a) to be the subject of a direction under section 56 (power to direct change of name in case of similarity to existing name), or

(b) to give rise to a further application under section 58 (objection to company's registered name).

(3) The notice must specify a date by which the respondent company's name is to be changed and may be enforced in the same way as an order of the Court.

(4) If the respondent company's name is not changed in accordance with the order by the specified date, the Registrar may determine a new name for the company.

(5) If the Registrar determines a new name for the respondent company he must give notice of his determination–

(a) to the applicant, and

(b) to the respondents.

(6) For the purposes of this section a company's name is changed when the change takes effect in accordance with section 69(1) (change of name: effect).

62. Appeal from Registrar's decision

(1) An appeal lies to the Court from any decision of the Registrar to uphold or dismiss an application under section 58 (objection to company's registered name).

(2) Notice of appeal against a decision upholding an application must be given before the date specified in the Registrar's notice by which the respondent company's name is to be changed.

(3) If notice of appeal is given against a decision upholding an application, the effect of the Registrar's notice is suspended.

(4) If on appeal the Court–

(a) affirms the decision of the Registrar to uphold the application, or

(b) reverses the decision of the Registrar to dismiss the application,

the Court may (as the case may require) specify the date by which the Registrar's notice is to be complied with, remit the matter to the Registrar or make any order or determination that the Registrar might have made.

(5) If the Court determines a new name for the company it must give notice of the determination–

(a) to the parties to the appeal, and

(b) to the Registrar.

CHAPTER 3

OTHER POWERS OF THE REGISTRAR

63. Provision of misleading information etc

(1) If it appears to the Registrar–

(a) that misleading information has been given for the purposes of a company's registration by a particular name, or

(b) that an undertaking or assurance has been given for that purpose and has not been fulfilled,

the Registrar may direct the company to change its name.

(2) Any such direction–

(a) must be given within five years of the company's registration by that name, and

(b) must specify the period within which the company is to change its name.

(3) The Registrar may by a further direction extend the period within which the company is to change its name.

Any such direction must be given before the end of the period for the time being specified.

(4) A direction under this section must be in writing.

(5) If a company fails to comply with a direction under this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(6) A person who commits the contravention referred to in subsection (5) shall be liable to a fine of up to level 7.

64. Misleading indication of activities

(1) If in the opinion of the Registrar the name by which a company is registered gives so misleading an indication of the nature of its activities as to be likely to cause harm to the public, the Registrar may direct the company to change its name.

(2) The direction must be in writing.

(3) The direction must be complied with within a period of six weeks from the date of the direction or such longer period as the Registrar may think fit to allow.

This does not apply if an application is duly made to the Court under the following provisions.

(4) The company may apply to the Court to set the direction aside.

The application must be made within the period of three weeks from the date of the direction.

(5) The Court may set the direction aside or confirm it.

If the direction is confirmed, the Court shall specify the period within which the direction is to be complied with.

(6) If a company fails to comply with a direction under this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(7) A person who commits the contravention referred to in subsection (6) shall be liable to a fine of up to level 4.

CHAPTER 4

CHANGE OF NAME

65. Change of name

(1) A company may change its name–

(a) by special resolution (see section 66 (change of name by special resolution)), or

(b) by other means provided for by the company's articles (see section 67 (change of name by means provided for in company's articles)).

(2) The name of a company may also be changed–

(a) on the determination of a new name by the Registrar under section 61 (order requiring name to be changed),

(b) on the determination of a new name by the Court under section 62 (appeal from Registrar's decision),

(c) under section 891 (company's name on restoration).

66. Change of name by special resolution

(1) Where a change of name has been agreed to by a company by special resolution, the company must give notice to the Registrar.

This is in addition to the obligation to forward a copy of the resolution to the Registrar.

(2) Where a change of name by special resolution is conditional on the occurrence of an event, the notice given to the Registrar of the change must–

(a) specify that the change is conditional, and

(b) state whether the event has occurred.

(3) If the notice states that the event has not occurred–

(a) the Registrar is not required to act under section 68 (change of name: registration and issue of new certificate of incorporation) until further notice,

(b) when the event occurs, the company must give notice to the Registrar stating that it has occurred, and

(c) the Registrar may rely on the statement as sufficient evidence of the matters stated in it.

67. Change of name by means provided for in company's articles

(1) Where a change of a company's name has been made by other means provided for by its articles–

(a) the company must give notice to the Registrar, and

(b) the notice must be accompanied by a statement that the change of name has been made by means provided for by the company's articles.

(2) The Registrar may rely on the statement as sufficient evidence of the matters stated in it.

68. Change of name: registration and issue of new certificate of incorporation

(1) This section applies where the Registrar receives notice of a change of a company's name.

(2) If the Registrar is satisfied–

(a) that the new name complies with the requirements of this Part, and

(b) that the requirements of these Regulations, and any relevant requirements of the company's articles, with respect to a change of name are complied with,

the Registrar must enter the new name on the register in place of the former name.

(3) On the registration of the new name, the Registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(4) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

69. Change of name: effect

(1) A change of a company's name has effect from the date on which the new certificate of incorporation is issued.

(2) The change does not affect any rights or obligations of the company or render defective any legal proceedings by or against it.

(3) Any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

(4) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

CHAPTER 5

TRADING DISCLOSURES

70. Requirement to disclose company name etc

(1) The Board may make rules requiring companies–

(a) to display specified information in specified locations,

(b) to state specified information in specified descriptions of document or communication, and

(c) to provide specified information on request to those they deal with in the course of their business.

(2) The rules–

(a) must in every case require disclosure of the name of the company,

(b) may make provision as to the manner in which any specified information is to be displayed, stated or provided, and

(c) may declare specified companies exempt in whole or in part from the requirements imposed under this section.

(3) The rules may provide that, for the purposes of any requirement to disclose a company's name, any variation between a word or words required to be part of the name and a permitted abbreviation of that word or those words (or vice versa) shall be disregarded.

(4) In this section "specified" means specified in the rules made under this section.

71. Consequences of failure to make required disclosure

(1) This section applies to any legal proceedings brought by a company to which section 70 (requirement to disclose company name etc) applies to enforce a right arising out of a contract made in the course of a business in respect of which the company was, at the time the contract was made, in breach of rules under that section.

(2) The proceedings shall be dismissed if the defendant to the proceedings shows–

(a) that he has a claim against the claimant arising out of the contract that he has been unable to pursue by reason of the latter's breach of the rules, or

(b) that he has suffered some financial loss in connection with the contract by reason of the claimant's breach of the rules,

unless the Court before which the proceedings are brought is satisfied that it is just and equitable to permit the proceedings to continue.

(3) This section does not affect the right of any person to enforce such rights as he may have against another person in any proceedings brought by that person.

72. Consequences of failure to make required disclosures

(1) Rules under section 70 (requirement to disclose company name etc) may provide–

(a) that where a company fails, without reasonable excuse, to comply with any specified requirement of rules under that section a contravention of these Regulations is committed by–

(i) the company, and

(ii) every officer of the company who is in default,

(b) that a person who commits the contravention referred to in subsection (1)(a) shall be liable to a level 1 fine.

(2) The rules may provide that, for the purposes of any provision made under subsection (1), a shadow director of the company is to be treated as an officer of the company.

(3) In subsection (1)(a) "specified" means specified in the rules.

73. Minor variations in form of name to be left out of account

(1) For the purposes of this Chapter, in considering a company's name no account is to be taken of–

(a) whether upper or lower case characters (or a combination of the two) are used,

(b) whether diacritical marks or punctuation are present or absent, or

(c) whether the name is in the same format or style as is specified under section 51(1)(b) (permitted characters etc) for the purposes of registration,

provided there is no real likelihood of names differing only in those respects being taken to be different names.

(2) This does not affect the operation of regulations under section 51(1)(a) (permitted characters etc) permitting only specified characters, diacritical marks or punctuation.

PART 6

A COMPANY'S REGISTERED OFFICE

General

74. A company's registered office

A company must at all times have a registered office in the Abu Dhabi Global Market to which all communications and notices may be addressed.

75. Change of address of registered office

(1) A company may change the address of its registered office by giving notice to the Registrar.

(2) The change takes effect upon the notice being registered by the Registrar, but until the end of the period of 14 days beginning with the date on which it is registered a person may validly serve any document on the company at the address previously registered.

(3) For the purposes of any duty of a company–

(a) to keep available for inspection at its registered office any register, index or other document, or

(b) to mention the address of its registered office in any document,

a company that has given notice to the Registrar of a change in the address of its registered office may act on the change as from such date, not more than 14 days after the notice is given, as it may determine.

(4) Where a company unavoidably ceases to perform at its registered office any such duty as is mentioned in subsection (3)(a) in circumstances in which it was not practicable to give prior notice to the Registrar of a change in the address of its registered office, but–

(a) resumes performance of that duty at other premises as soon as practicable, and

(b) gives notice accordingly to the Registrar of a change in the situation of its registered office within 14 days of doing so,

it is not to be treated as having failed to comply with that duty.

PART 7

RE-REGISTRATION AND CONTINUANCE

CHAPTER 1

RE-REGISTRATION AS A MEANS OF ALTERING A COMPANY'S STATUS

Introductory

76. Alteration of status by re-registration

A company may by re-registration under this Part alter its status–

(a) from a private company to a public company (see sections 77 (re-registration of private company as public) to 80 (issue of certificate of incorporation on re-registration)),

(b) from a public company to a private company (see sections 81 (re-registration of public company as private) to 85 (issue of certificate of incorporation on re-registration)),

(c) from a private limited company to an unlimited company (see sections 86 (re-registration of private limited company as unlimited) to 88 (issue of certificate of incorporation on re-registration)),

(d) from an unlimited company to a limited company (see sections 89 (re-registration of unlimited company as limited) to 92 (statement of capital required where company already has share capital),

(e) from a public company to an unlimited private company (see sections 93 (re-registration of public company as private and unlimited) to 95 (issue of certificate of incorporation on re-registration)), and

(f) from a restricted scope company to a non-restricted scope company (see sections 96 (re-registration of a restricted scope company as a non-restricted scope company) to 99 (issue of certificate of incorporation on re-registration)).

77. Re-registration of private company as public

(1) A private company (whether limited or unlimited and whether it is a restricted scope company or not) may be re-registered as a public company limited by shares if–

(a) a special resolution that it should be so re-registered is passed,

(b) the conditions specified below are met, and

(c) an application for re-registration is delivered to the Registrar in accordance with section 78 (application and accompanying documents), together with–

(i) the other documents required by that section, and

(ii) a statement of compliance.

(2) The conditions are–

(a) that the company has a share capital not less than the authorised minimum required for a public company, and

(b) that the company has not previously been re-registered as unlimited.

(3) The company must make such changes–

(a) in its name, and

(b) in its articles,

as are necessary in connection with its becoming a public company.

(4) If the company is unlimited it must also make such changes in its articles as are necessary in connection with its becoming a company limited by shares.

78. Application and accompanying documents[1]

(1) An application for re-registration as a public company must contain–

(a) a statement of the company's proposed name on re-registration, and

(b) in the case of a company without a secretary, a statement of the company's proposed secretary (see section 79 (statement of proposed secretary)).

(2) The application must be accompanied by–

(a) a copy of the special resolution that the company should re-register as a public company (unless a copy has already been forwarded to the Registrar under Chapter 3 of Part 3),

(b) a copy of the company's articles as proposed to be amended,

(c) a balance sheet prepared as at a date not more than seven months before the date on which the application is delivered to the Registrar, or, for companies unable to satisfy the foregoing requirement, financial statements of its subsidiaries covering at least two years before the date on which the application is delivered to the Registrar, and

(d) an unqualified report by the company's auditor on that balance sheet or the financial statements of the company's subsidiaries, as the case may be.

(3) The statement of compliance required to be delivered together with the application is a statement that the requirements of this Part as to re-registration as a public company have been complied with.

(4) The Registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be re-registered as a public company.

79. Statement of proposed secretary

(1) The statement of the company's proposed secretary must contain the required particulars of the person who is or the persons who are to be the secretary or joint secretaries of the company.

[1] Amended 28 February 2024

(2) The required particulars are the particulars that will be required to be stated in the company's register of secretaries (see sections 294 (particulars of secretaries to be registered: individuals) and 295 (particulars of secretaries to be registered: corporate secretaries and firms)).

(3) The statement must also contain a consent by the person named as secretary, or each of the persons named as joint secretaries, to act in the relevant capacity. If all the partners in a firm are to be joint secretaries, consent may be given by one partner on behalf of all of them.

80. Issue of certificate of incorporation on re-registration

(1) If on an application for re-registration as a public company the Registrar is satisfied that the company is entitled to be so re-registered, the company shall be re-registered accordingly.

(2) The Registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate must state that it is issued on re-registration and the date on which it is issued.

(4) On the issue of the certificate–

(a) the company by virtue of the issue of the certificate becomes a public company,

(b) the changes in the company's name and articles take effect, and

(c) where the application contained a statement under section 79 (statement of proposed secretary), the person or persons named in the statement as secretary or joint secretary of the company are deemed to have been appointed to that office.

(5) The certificate is conclusive evidence that the requirements of these Regulations as to re-registration have been complied with.

(6) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

81. Re-registration of public company as private limited company

(1) A public company may be re-registered as a private limited company if–

(a) a special resolution that it should be so re-registered is passed, and

(b) an application for re-registration is delivered to the Registrar in accordance with section 84 (application and accompanying documents), together with–

(i) the other documents required by that section, and

(ii) a statement of compliance.

(2) The company must make such changes–

(a) in its name, and

(b) in its articles,

as are necessary in connection with its becoming a private company limited by shares or, as the case may be, by guarantee.

82. Application to Court to cancel resolution

(1) Where a special resolution by a public company to be re-registered as a private limited company has been passed, an application to the Court for the cancellation of the resolution may be made–

(a) by the holders of not less in the aggregate than 5% of the company's issued share capital or any class of the company's issued share capital (disregarding any shares held by the company as treasury shares),

(b) if the company is not limited by shares, by not less than 5% of its members, or

(c) by not less than 50 of the company's members,

but not by a person who has consented to or voted in favour of the resolution.

(2) The application must be made within one month after the passing of the resolution and may be made on behalf of the persons entitled to make it by such one or more of their number as they may appoint for the purpose.

(3) On the hearing of the application the Court shall make an order either cancelling or confirming the resolution.

(4) The Court may–

(a) make that order on such terms and conditions as it thinks fit,

(b) if it thinks fit adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members, and

(c) give such directions, and make such orders, as it thinks expedient for facilitating or carrying into effect any such arrangement.

(5) The Court's order may, if the Court thinks fit–

(a) provide for the purchase by the company of the shares of any of its members and for the reduction accordingly of the company's capital, and

(b) make such alteration in the company's articles as may be required in consequence of that provision.

(6) The Court's order may, if the Court thinks fit, require the company not to make any, or any specified, amendments to its articles without the leave of the Court.

83. Notice to Registrar of Court application or order

(1) On making an application under section 82 (application to Court to cancel resolution) the applicants, or the person making the application on their behalf, must immediately give notice to the Registrar.

This is without prejudice to any provision of rules of Court as to service of notice of the application.

(2) On being served with notice of any such application, the company must immediately give notice to the Registrar.

(3) Within 14 days of the making of the Court's order on the application, or such longer period as the Court may at any time direct, the company must deliver to the Registrar a copy of the order.

(4) If a company fails to comply with subsection (2) or (3) a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits the contravention referred to in subsection (4) shall be liable to a level 2 fine.

84. Application and accompanying documents

(1) An application for re-registration as a private limited company must contain a statement of the company's proposed name on re-registration.

(2) The application must be accompanied by–

(a) a copy of the resolution that the company should re-register as a private limited company (unless a copy has already been forwarded to the Registrar under Chapter 3 of Part 3), and

(b) a copy of the company's articles as proposed to be amended.

(3) The statement of compliance required to be delivered together with the application is a statement that the requirements of this Part as to re-registration as a private limited company have been complied with.

(4) The Registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be re-registered as a private limited company.

85. Issue of certificate of incorporation on re-registration

(1) If on an application for re-registration as a private limited company the Registrar is satisfied that the company is entitled to be so re-registered, the company shall be re-registered accordingly.

(2) The Registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate must state that it is issued on re-registration and the date on which it is issued.

(4) On the issue of the certificate–

(a) the company by virtue of the issue of the certificate becomes a private limited company, and

(b) the changes in the company's name and articles take effect.

(5) The certificate is conclusive evidence that the requirements of these Regulations as to re-registration have been complied with.(6) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

86. Re-registration of private limited company as unlimited

(1) A private limited company may be re-registered as an unlimited company if–

(a) all the members of the company have assented to its being so re-registered,

(b) the condition specified below is met, and an application for re-registration is delivered to the Registrar in accordance with section 87 (application and accompanying documents), together with–

(i) the other documents required by that section, and

(ii) a statement of compliance.

(2) The condition is that the company has not previously been re-registered as limited.

(3) The company must make such changes in its name and its articles–

(a) as are necessary in connection with its becoming an unlimited company, and

(b) if it is to have a share capital, as are necessary in connection with its becoming an unlimited company having a share capital.

(4) For the purposes of this section–

(a) a person appointed by a competent Court or by law to manage the affairs of a bankrupt member of the company is entitled, to the exclusion of the member, to assent to the company's becoming unlimited, and

(b) the personal representative of a deceased member of the company may assent on behalf of the deceased.

87. Application and accompanying documents

(1) An application for re-registration as an unlimited company must contain a statement of the company's proposed name on re-registration.

(2) The application must be accompanied by–

(a) the prescribed form of assent to the company's being registered as an unlimited company, authenticated by or on behalf of all the members of the company, and

(b) a copy of the company's articles as proposed to be amended.

(3) The statement of compliance required to be delivered together with the application is a statement that the requirements of this Part as to re-registration as an unlimited company have been complied with.

(4) The statement of compliance must contain a statement by the directors of the company–

(a) that the persons by whom or on whose behalf the form of assent is authenticated constitute the whole membership of the company, and

(b) if any of the members have not authenticated that form themselves, that the directors have taken all reasonable steps to satisfy themselves that each person who authenticated it on behalf of a member was lawfully empowered to do so.

(5) The Registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be re-registered as an unlimited company.

88. Issue of certificate of incorporation on re-registration

(1) If on an application for re-registration of a private limited company as an unlimited company the Registrar is satisfied that the company is entitled to be so re-registered, the company shall be re-registered accordingly.

(2) The Registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate must state that it is issued on re-registration and the date on which it is issued.

(4) On the issue of the certificate–

(a) the company by virtue of the issue of the certificate becomes an unlimited company, and

(b) the changes in the company's name and articles take effect.

(5) The certificate is conclusive evidence that the requirements of these Regulations as to re-registration have been complied with.

(6) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

89. Re-registration of unlimited company as limited

(1) An unlimited company may be re-registered as a private limited company if–

(a) a special resolution that it should be so re-registered is passed,

(b) the condition specified below is met, and

(c) an application for re-registration is delivered to the Registrar in accordance with section 90 (application and accompanying documents), together with–

(i) the other documents required by that section, and

(ii) a statement of compliance.

(2) The condition is that the company has not previously been re-registered as unlimited.

(3) The special resolution must state whether the company is to be limited by shares or by guarantee.

(4) The company must make such changes–

(a) in its name, and

(b) in its articles,

as are necessary in connection with its becoming a company limited by shares or, as the case may be, by guarantee.

90. Application and accompanying documents

(1) An application for re-registration as a limited company must contain a statement of the company's proposed name on re-registration.

(2) The application must be accompanied by–

(a) a copy of the resolution that the company should re-register as a private limited company (unless a copy has already been forwarded to the Registrar under Chapter 3 of Part 3),

(b) if the company is to be limited by guarantee, a statement of guarantee,

(c) a copy of the company's articles as proposed to be amended.

(3) The statement of guarantee required to be delivered in the case of a company that is to be limited by guarantee must state that each member undertakes that, if the company is wound up while he is a member, or within one year after he ceases to be a member, he will contribute to the assets of the company such amount as may be required for–

(a) payment of the debts and liabilities of the company contracted before he ceases to be a member,

(b) payment of the costs, charges and expenses of winding up, and

(c) adjustment of the rights of the contributories among themselves,

not exceeding a specified amount.

(4) The statement of compliance required to be delivered together with the application is a statement that the requirements of this Part as to re-registration as a limited company have been complied with.

(5) The Registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be re-registered as a limited company.

91. Issue of certificate of incorporation on re-registration

(1) If on an application for re-registration of an unlimited company as a limited company the Registrar is satisfied that the company is entitled to be so re-registered, the company shall be re-registered accordingly.

(2) The Registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate must state that it is issued on re-registration and the date on which it is so issued.

(4) On the issue of the certificate–

(a) the company by virtue of the issue of the certificate becomes a limited company, and

(b) the changes in the company's name and articles take effect.

(5) The certificate is conclusive evidence that the requirements of these Regulations as to re-registration have been complied with.

(6) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

92. Statement of capital required where company already has share capital

(1) A company which on re-registration under section 91 (issue of certificate of incorporation on re-registration) already has allotted share capital must within 14 days after the re-registration deliver a statement of capital to the Registrar.

(2) This does not apply if the information which would be included in the statement has already been sent to the Registrar in–

(a) a statement of capital and initial shareholdings (see section 7 (statement of capital and initial shareholdings)), or

(b) a statement of capital contained in a confirmation statement (see section 781 (contents of confirmation statement: information about shares and share capital)).

(3) The statement of capital must state with respect to the company's share capital on re-registration–

(a) the total number of shares of the company,

(b) for each class of shares–

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the amount paid up and the amount (if any) unpaid on each share.

(4) If default is made in complying with this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits the contravention referred to in subsection (4) shall be liable to a level 3 fine.

93. Re-registration of public company as private and unlimited

(1) A public company limited by shares may be re-registered as an unlimited private company with a share capital if–

(a) all the members of the company have assented to its being so reregistered,

(b) the condition specified below is met, and

(c) an application for re-registration is delivered to the Registrar in accordance with section 94 (application and accompanying documents), together with–

(i) the other documents required by that section, and

(ii) a statement of compliance.

(2) The condition is that the company has not previously been re-registered–

(a) as limited, or

(b) as unlimited.

(3) The company must make such changes–

(a) in its name, and

(b) in its articles,

as are necessary in connection with its becoming an unlimited private company.

(4) For the purposes of this section–

(a) a person appointed by a competent Court or by law to manage the affairs of a bankrupt member of the company is entitled, to the exclusion of the member, to assent to the company's re-registration, and

(b) the personal representative of a deceased member of the company may assent on behalf of the deceased.

94. Application and accompanying documents

(1) An application for re-registration of a public company as an unlimited private company must contain a statement of the company's proposed name on re-registration.

(2) The application must be accompanied by–

(a) the prescribed form of assent to the company's being registered as an unlimited company, authenticated by or on behalf of all the members of the company, and

(b) a copy of the company's articles as proposed to be amended.

(3) The statement of compliance required to be delivered together with the application is a statement that the requirements of this Part as to re-registration as an unlimited private company have been complied with.

(4) The statement must contain a statement by the directors of the company–

(a) that the persons by whom or on whose behalf the form of assent is authenticated constitute the whole membership of the company, and

(b) if any of the members have not authenticated that form themselves, that the directors have taken all reasonable steps to satisfy themselves that each person who authenticated it on behalf of a member was lawfully empowered to do so.

(5) The Registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be re-registered as an unlimited private company.

95. Issue of certificate of incorporation on re-registration

(1) If on an application for re-registration of a public company as an unlimited private company the Registrar is satisfied that the company is entitled to be so re-registered, the company shall be re-registered accordingly.

(2) The Registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate must state that it is issued on re-registration and the date on which it is so issued.

(4) On the issue of the certificate–

(a) the company by virtue of the issue of the certificate becomes an unlimited private company, and

(b) the changes in the company's name and articles take effect.

(5) The certificate is conclusive evidence that the requirements of these Regulations as to re-registration have been complied with.

(6) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

96. Re-registration of a restricted scope company as a non-restricted scope company

(1) A restricted scope company (whether limited or unlimited) may be re-registered as a non-restricted scope company if–

(a) a special resolution that it should be so re-registered is passed,

(b) an application for re-registration is delivered to the Registrar in accordance with section 97 (application and accompanying documents), together with–

(i) the other documents required by that section, and

(ii) a statement of compliance.

(2) The company must make such changes–

(a) in its name, and

(b) in its articles,

as are necessary in connection with its becoming a non-restricted scope company.

(3) A restricted scope company shall re-register as a non-restricted scope company pursuant to this section if it no longer meets the criteria set out in section 3(4) (private and public companies).

97. Application and accompanying documents

(1) An application for re-registration as a non-restricted scope company must contain a statement of the company's proposed name on re-registration.

(2) The application must be accompanied by–

(a) a copy of the special resolution that the company should re-register as a non-restricted scope company (unless a copy has already been forwarded to the Registrar under Chapter 3 of Part 3),

(b) a copy of the company's articles as proposed to be amended, and

(c) a statement of capital.

(3) The statement of compliance required to be delivered together with the application is a statement that the requirements of this Part as to re-registration as a non-restricted scope company have been complied with, and that the company agrees to be subject to the disclosure requirements of section 952 (documents subject to enhanced disclosure requirements) as applicable to non-restricted scope companies.

(4) The Registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be re-registered as a non-restricted scope company.

98. Application to Court to cancel resolution

(1) Where a special resolution by a restricted scope company to be re-registered as a non-restricted scope company has been passed, an application to the Court for the cancellation of the resolution may be made–

(a) by the holders of not less in the aggregate than 5% of the company's issued share capital or any class of the company's issued share capital (disregarding any shares held by the company as treasury shares),

(b) if the company is not limited by shares, by not less than 5% of its members, or

(c) by not less than 50 of the company's members,

but not by a person who has consented to or voted in favour of the resolution.

(2) The application must be made within one month after the passing of the resolution and may be made on behalf of the persons entitled to make it by such one or more of their number as they may appoint for the purpose.

(3) On the hearing of the application the Court shall make an order either cancelling or confirming the resolution.

(4) The Court may–

(a) make that order on such terms and conditions as it thinks fit,

(b) if it thinks fit adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members, and

(c) give such directions, and make such orders, as it thinks expedient for facilitating or carrying into effect any such arrangement.

(5) The Court's order may, if the Court thinks fit–

(a) provide for the purchase by the company of the shares of any of its members and for the reduction accordingly of the company's capital, and

(b) make such alteration in the company's articles as may be required in consequence of that provision.

(6) The Court's order may, if the Court thinks fit, require the company not to make any, or any specified, amendments to its articles without the leave of the Court.

99. Issue of certificate of incorporation on re-registration

(1) If on an application for re-registration as a non-restricted scope company the Registrar is satisfied that the company is entitled to be so re-registered, the company shall be re-registered accordingly.

(2) The Registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate must state that it is issued on re-registration and the date on which it is issued.

(4) On the issue of the certificate–

(a) the company by virtue of the issue of the certificate becomes a non-restricted scope company, and

(b) the changes in the company's name and articles take effect.

The certificate is conclusive evidence that the requirements of these Regulations as to re-registration have been complied with.

(5) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

CHAPTER 2

CONTINUANCE

100. Bodies corporate which are eligible for continuance

(1) Subject to section 101 (restrictions on continuance), a body corporate which is incorporated outside the Abu Dhabi Global Market may apply under section 102 (application to Registrar for continuance within the Abu Dhabi Global Market) to the Registrar for the issue to it of a certificate that it continues as a company registered under these Regulations, if it is authorised to make such an application by the laws of the jurisdiction under which it is incorporated outside the Abu Dhabi Global Market.

(2) Subject to section 101 (restrictions on continuance), a company which is formed or registered under these Regulations may apply under section 111 (application to Registrar for authorisation to seek continuance overseas) to the Registrar for authorisation to seek continuance as a body incorporated under the laws of another jurisdiction if permitted in that jurisdiction and if the proposal to apply in that other jurisdiction for continuance there is approved by the company and its members in accordance with section 108 (approval by company and members of proposal for continuance overseas).

101. Restrictions on continuance

(1) An application may not be made under section 102 (application to Registrar for continuance within the Abu Dhabi Global Market), by a body corporate to which subsection (3) applies, for continuance as a company registered under these Regulations.

(2) An application may not be made under section 111 (application to Registrar for authorisation to seek continuance overseas), by a company to which subsection (3) applies, for authorisation to seek continuance in another jurisdiction.

(3) This subsection applies to a body corporate or company if–

(a) it is being wound up or is in liquidation,

(b) it is insolvent,

(c) a receiver, manager or administrator (by whatever name any such person is called) has been appointed, whether by a Court or in some other manner, in respect of any property of that body corporate or company,

(d) it has entered into a compromise or arrangement with a creditor (not being a compromise or arrangement approved by the Registrar) and that compromise or arrangement is in force, or

(e) an application is pending before a Court for the winding up or liquidation of that body corporate or company, or to have it declared insolvent, or for the appointment of such a receiver, manager or administrator or for the approval of such a compromise or arrangement.

(4) For the purposes of subsection (3), the jurisdiction in which–

(a) the body corporate is being wound up or is in liquidation,

(b) the receiver, manager or administrator has been appointed or the compromise or arrangement has been entered into, or

(c) the application before a Court is pending,

is immaterial.

(5) An application may not be made under section 102 by a body corporate whose members have unlimited liability unless such body corporate applies for continuance as an unlimited company.

102. Application to Registrar for continuance within the Abu Dhabi Global Market

(1) An application to the Registrar under this section by a body incorporated outside the Abu Dhabi Global Market, for continuance as a company formed or registered under these Regulations, shall be accompanied by–

(a) a copy (certified, in a manner approved by the Registrar, to be a true copy) of the articles, or of the law or other instrument constituting or defining the constitution of the body corporate,

(b) articles of continuance which comply with section 103 (articles of continuance),

(c) a statement of solvency which is in accordance with section 114 (statement of solvency in respect of continuance),

(d) the name under which it is proposed to continue the body corporate as a company formed or registered under these Regulations,

(e) in relation to every person who is a director of the body corporate at the date of the application under this section or is to be a director of it upon its continuance as a company formed or registered under these Regulations–

(i) in the case of a director who is a natural person, the particulars specified in section 154 (particulars of directors to be registered: individuals),

(ii) in the case of a director which is a corporate director, the particulars specified in section 155 (particulars of directors to be registered: corporate directors and firms),

(f) in relation to each person who is a secretary of the body corporate at the date of the application under this section or is to be its secretary upon its continuance as a company formed or registered under these Regulations, the particulars specified in section 294 (particulars of secretaries to be registered: individuals) or 295 (particulars of secretaries to be registered: corporate secretaries and firms) (as the case may be) and his or her qualifications,

(g) such other information as the Registrar would require on an application to register the body corporate as a company under these Regulations,

(h) such other documents and information as the Registrar may require in respect of a particular application under this section, and

(i) any published application fee.

(2) The application under this section shall also be accompanied by evidence, satisfactory to the Registrar, of the following matters–

(a) that the body corporate is authorised, by the laws of the jurisdiction under which it is incorporated, to make the application to the Registrar,

(b) where the constitution of the body corporate or the law of that jurisdiction requires that any authorisation be given for the application to the Registrar, that it has been given,

(c) that if a certificate of continuance is issued under these Regulations pursuant to the application under this section, the body will thereupon cease to be incorporated under the other jurisdiction,

(d) that if a certificate of continuance is so issued, the interests of the members and the creditors of the body corporate will not be unfairly prejudiced, and

(e) that the body corporate is not prevented by section 101 (restrictions on continuance) from making the application under this section.

(3) If an instrument which is submitted in accordance with subsection (1)(a) is not in the English language, the application under this section shall also be accompanied by a translation of the instrument into English.

(4) Every translation to which subsection (3) refers shall be certified, in a manner approved by the Registrar, to be a correct translation.

103. Articles of continuance

(1) Articles of continuance shall state those amendments to be made to the articles of the body corporate, or to the instrument constituting or defining its constitution, which are necessary to conform to these Regulations.

(2) If any other amendments which are to be made to the articles, or to the instrument–

(a) have been approved by its members in the manner required by these Regulations for amendments to the articles of a company, and

(b) would be permitted under these Regulations if the body corporate were a company,

the articles of continuance shall also state those amendments.

104. Proposed name

(1) After receiving an application under section 102 (application to Registrar for continuance within the Abu Dhabi Global Market), the Registrar shall decide whether that name is in its opinion in any way misleading or otherwise undesirable.

(2) If the applicant proposes that it shall continue as a company, its name must in any event comply with section 52 (public limited companies) or 53 (private limited companies) (as appropriate).

105. Determination of application to Registrar for continuance within the Abu Dhabi Global Market

(1) If the Registrar, on an application under section 102 (application to register for continuance within the Abu Dhabi Global Market) for continuance as a company formed or registered under these Regulations–

(a) is satisfied that the application complies with that section and with section 100(1) (bodies corporate which are eligible for continuance),

(b) is satisfied that the proposed name of the applicant is not in any way misleading or otherwise undesirable, and is also satisfied that the name complies with section 52 (public limited companies) or 53 (private limited companies) (as appropriate), and

(c) is satisfied that all other approvals and consents required by these Regulations for the issue of a certificate of continuance to the applicant have been given,

and, the applicant having paid all application fees, the Registrar may grant the application.

(2) On determining the application, the Registrar shall inform the applicant of its decision.

106. Issue of certificate of continuance within the Abu Dhabi Global Market

(1) When the Registrar has granted an application for a certificate of continuance as a company formed or registered under these Regulations the Registrar shall register the application and the documents that accompanied the application.

(2) On registration, the Registrar shall immediately issue to the applicant a certificate of continuance.

(3) When the Registrar issues a certificate of continuance, the Registrar shall also immediately send a copy of it (electronically or by some other means of instantaneous transmission) to the appropriate official or public body in the jurisdiction to which section 102(2)(a) (application to Registrar for continuance within the Abu Dhabi Global Market) refers.

(4) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

107. Effect of issue of certificate of continuance within the Abu Dhabi Global Market

(1) Upon the issue of the certificate of continuance by the Registrar–

(a) the body corporate becomes a company registered under these Regulations, to which these Regulations apply accordingly, and

(b) the articles, or the instrument constituting or defining the constitution of the body corporate, as amended in accordance with its articles of continuance, become the articles of the continued company.

(2) When a body corporate is continued as a company formed or registered under these Regulations–

(a) all property and rights to which the body corporate was entitled immediately before the certificate of continuance is issued are the property and rights of the company,

(b) the company is subject to all criminal and civil liabilities, and all contracts, debts and other obligations, to which the body corporate was subject immediately before the certificate of continuance is issued, and

(c) all actions and other legal proceedings which, immediately before the issue of the certificate of continuance, were pending by or against the body corporate may be continued by or against the company.

(3) A certificate of continuance is conclusive evidence of the following matters–

(a) that the company is formed or registered under these Regulations,

(b) that the requirements of these Regulations have been complied with in respect of–

(i) the continuance of the company under these Regulations,

(ii) all matters precedent to its continuance as such a company, and

(iii) all matters incidental to its continuance as such a company, and

(c) if the certificate states that it is–

(i) a public company,

(ii) a private company limited by shares,

(iii) a private company limited by guarantee,

(iv) a restricted scope company, or

(v) an unlimited company,

that it is such a company.

108. Approval by company and members of proposal for continuance overseas

(1) A proposal by a company to apply in another jurisdiction for continuance there shall be approved by a special resolution of the company and, where there is more than one class of members, by a special resolution of the members of each class passed at a separate meeting of the members of that class.

(2) Notice of each meeting–

(a) shall be accompanied by a copy or summary of the proposed application in the other jurisdiction for continuance there, and

(b) shall state that any member of the company who objects to the application may, within the time limit specified in section 110(2) (objections by members to continuance overseas), apply to the Court for an order under Part 28 on the ground that the proposed continuance would unfairly prejudice his or her interests.

(3) On a resolution to approve a proposed application in another jurisdiction for continuance–

(a) each member of the company shall be entitled to vote,

(b) on a show of hands, every person present in person at the meeting shall have one vote, and

(c) the right to demand a poll and the right to vote on a poll shall be determined in accordance with section 338 (right to demand a poll) and 340 (voting on a poll) respectively,

subject to any provision to the contrary in the articles of the company.

109. Notice to creditors of application to Registrar for authorisation to seek continuance overseas

(1) At least 31 days before making an application under section 111 (application to Registrar for authorisation to seek continuance overseas) to the Registrar for authorisation to seek continuance in another jurisdiction, a company shall give notice to its creditors in accordance with subsection (2).

(2) The notice–

(a) shall state that the company intends to make the application to the Registrar, and shall specify the jurisdiction in which it proposes to seek continuance,

(b) shall be sent in writing to each creditor of the company,

(c) shall be published once in a national newspaper or in such other manner as the Court may on application direct, and

(d) shall state that any creditor of the company who objects to the application may within 30 days of the date of the advertisement give notice of his or her objection to the company.

(3) A creditor who gives notice in accordance with subsection (2)(d) and whose claim against the company has not been discharged may, within 30 days after the date of the notice, apply to the Court for an order restraining the application by the company under section 111 (application to Registrar for authorisation to seek continuance overseas) to the Registrar.

(4) On the creditor's application the Court, if satisfied that the interests of the creditor would be unfairly prejudiced by the proposed continuance, may make an order (subject to such terms, if any, as it may think fit) restraining the application by the company under section 111 (application to Registrar for authorisation to seek continuance overseas) to the Registrar.

110. Objections by members to continuance overseas

(1) If a company resolves to make an application under section 111 (application to Registrar for authorisation to seek continuance overseas) to the Registrar for authorisation to seek continuance in another jurisdiction, any member of the company who objects to the application (other than a member who consented to or voted in favour of it) may apply to the Court for an order restricting the application by the company under section 111 (application to Registrar for authorisation to seek continuance overseas) the ground that the proposed continuance would unfairly prejudice its interests.

(2) No such application may be made by a member after the expiration of the period of 30 days following the last of the resolutions of the company which are required under section 108 (approval by company and members of proposal for continuance overseas).

111. Application to Registrar for authorisation to seek continuance overseas

(1) An application to the Registrar under this section for authorisation to seek continuance in another jurisdiction shall be accompanied by–

(a) a copy (certified, in a manner approved by the Registrar, to be a true copy) of each resolution which is required under section 108 (approval by company and members of proposal for continuance overseas),

(b) a statement of solvency which is made in accordance with section 114 (statement of solvency in respect of continuance),

(c) such other documents and information as the Registrar may require in respect of a particular application for such authorisation, and

(d) any published application fees.

(2) The application under this section shall also be accompanied by evidence, satisfactory to the Registrar, of the following matters–

(a) that the laws of the jurisdiction in which the company proposes to continue allow its continuance there as a body corporate incorporated under those laws,

(b) that those laws provide that upon the continuance of the company as a body corporate in that jurisdiction–

(i) all property and rights of the company will become the property and rights of the body corporate,

(ii) the body corporate will become subject to all criminal and civil liabilities, and all contracts, debts and other obligations, to which the company is subject, and

(iii) all actions and other legal proceedings which are pending by or against the company may be continued by or against the body corporate,

(c) that notice has been given to the creditors of the company in accordance with section 109 (notice to creditors of application to Registrar for authorisation to seek continuance overseas) of the application to the Registrar under this section, and either–

(i) that no creditor has applied to the Court for an order restraining the application made to the Registrar under this section, or

(ii) that the application of every creditor who has so applied to the Court has been determined by the Court in a way which does not prevent the Registrar from granting the application made to it under this section,

(d) either–

(i) that no member of the company has applied to the Court for an order on the ground specified in section 110(1) (objections by members to continuance overseas), or

(ii) that the application of every member who has so applied to the Court has been determined by the Court in a way which does not prevent the Registrar from granting the application made to it under section 109(3) (notice to creditors of application to Registrar for authorisation to seek continuance overseas),

(e) that the company has complied with such other conditions as may be prescribed, and

(f) that the company is not prevented by section 101 (restrictions on continuance) from making the application.

112. Determination of application to Registrar for authorisation to seek continuance outside of the Abu Dhabi Global Market

(1) If, on an application under section 111 (application to Registrar for authorisation to seek continuance overseas) to the Registrar–

(a) it is satisfied that the application complies with that section and with section 100(2) (bodies corporate which are eligible for continuance), and

(b) the applicant has paid all application fees (if any),

the Registrar may grant the application on the condition specified in subsection (2) and on such other conditions (if any) as it may specify in its decision.

(2) It shall be a condition of the grant of any application made under section 111 (application to Registrar for authorisation to seek continuance overseas) that the applicant will ensure–

(a) that the Registrar is informed of the date on which continuance will be or is granted in the other jurisdiction, and

(b) that a copy of the instrument of continuance in the other jurisdiction, certified to be a true copy, is delivered to the Registrar,

in sufficient time to enable the Registrar to comply with section 113 (effect of continuance outside the Abu Dhabi Global Market).

(3) On determining the application, the Registrar shall inform the applicant of its decision.

113. Effect of continuance outside the Abu Dhabi Global Market

When a company is, in accordance with the terms of authorisation of the Registrar under section 112 (determination of application to Registrar for authorisation to seek continuance outside of the Abu Dhabi Global Market), continued as a body corporate under the laws of the other jurisdiction to which the authorisation relates–

(a) it thereupon ceases to be a company formed or registered under these Regulations, and

(b) the Registrar shall on that date record that by virtue of subsection (a) of this section, it has ceased to be so formed or registered.

114. Statements of solvency in respect of continuance

(1) A statement of solvency for the purposes of an application under section 102 (application to Registrar for continuance within the Abu Dhabi Global Market) for continuance as a company formed or registered under these Regulations shall be signed by each person who is a director of the applicant and shall state that, having made full inquiry into the affairs of the applicant, that director reasonably believes–

(a) that the applicant is and, if the application is granted, will upon the issue to it of a certificate of continuance be able to discharge its liabilities as they fall due, and

(b) that, having regard to–

(i) the prospects of the company,

(ii) the intentions of the directors with respect to the management of the company's business, and

(iii) the amount and character of the financial resources that will in the directors' view be available to the company,

the company will be able to–

(A) continue to carry on business, and

(B) discharge its liabilities as they fall due,

until the expiry of the period of 12 months immediately following the date on which the statement is signed.

(2) A statement of solvency for the purposes of an application under section 111 (application to Registrar for authorisation to seek continuance overseas) for authorisation to seek continuance in another jurisdiction shall be signed by each person who is a director of the applicant and shall state that, having made full inquiry into the affairs of the applicant, that director reasonably believes–

(a) that the applicant is and, if the application is granted, will upon its incorporation under the laws of the other jurisdiction be able to discharge its liabilities as they fall due, and

(b) that, having regard to–

(i) the prospects of the applicant,

(ii) the intentions of the directors with respect to the management of the applicant's business, and

(iii) the amount and character of the financial resources that will in the directors' view be available to the applicant if the application is granted,

the applicant, if incorporated under the laws of the other jurisdiction, will be able to discharge its liabilities as they fall due until the expiry of the period of 12 months immediately following the date on which the statement is signed.

(3) A statement of solvency for the purposes of section 102 (application to Registrar for continuance within the Abu Dhabi Global Market) or 111 (application to Registrar for authorisation to seek continuance overseas) shall also be signed by each person who is to be a director of the applicant upon its continuance as proposed in the application and shall state that the person so signing has no reason to believe that anything in the statement is untrue.

(4) A director, or a person who is to be a director, who makes a statement under subsection (1) or (2) without having reasonable grounds for the opinion expressed in the statement is in contravention of these Regulations and shall be liable for a fine of up to level 7.

(5) A statement of solvency for the purposes of either section 102 or 111 shall be made no more than 14 days prior to the date the relevant application is delivered to the Registrar.

115. Provisions relating to continuance

(1) The Board may prescribe for the purposes of this Part–

(a) conditions to be complied with in respect of applications under section 111 (application to Registrar for authorisation to seek continuance overseas) to the Registrar for authorisation to seek continuance under the laws of other jurisdictions, and

(b) the manner in which records are to be kept, by the Registrar, of bodies that have ceased under section 113 (effect of continuance outside the Abu Dhabi Global Market) to be companies formed or registered under these Regulations.

(2) Without prejudice to the generality of subsection (1), conditions to which subsection (1)(a) of that subsection refers–

(a) may relate to matters to be complied with on or before the making of such applications to the Registrar, or after the grant of such applications, and

(b) may require applicants to appoint and maintain authorised representatives in the Abu Dhabi Global Market for such periods, whether before or after their applications to the Registrar are determined, as may be prescribed.

(3) The Registrar may publish for the purposes of this Part details of–

(a) the forms of statements of solvency,

(b) any other document or information that is to be provided on applications relating to continuance within or outside the Abu Dhabi Global Market,

(c) how applicants must verify documents or information so provided, and

(d) the application fees that are payable to the Registrar.

116. Contravention of the Regulations relating to continuance

Any person who on or in connection with an application under this Part knowingly or recklessly provides to the Registrar–

(a) any information which is false, misleading or deceptive in a material particular, or

(b) any document containing any such information,

is in contravention of these Regulations and shall be liable for a fine of up to level 8.

PART 8

A COMPANY'S MEMBERS

CHAPTER 1

THE MEMBERS OF A COMPANY

117. The members of a company

(1) The initial members of a company are deemed to have agreed to become members of the company, and on its registration become members and must be entered as such in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, is a member of the company.

CHAPTER 2

REGISTER OF MEMBERS

General

118. Register of members

(1) Every company must keep a register of its members.

(2) There must be entered in the register–

(a) the names and addresses of the members,

(b) the date on which each person was registered as a member, and

(c) the date at which any person ceased to be a member.

(3) In the case of a company having a share capital, there must be entered in the register, with the names and addresses of the members, a statement of–

(a) the shares held by each member, distinguishing each share–

(i) by its number (so long as the share has a number), and

(ii) where the company has more than one class of issued shares, by its class, and

(b) the amount paid or agreed to be considered as paid on the shares of each member.

(4) In the case of joint holders of shares in a company, the company's register of members must state the names of each joint holder. In other respects joint holders are regarded for the purposes of this Chapter as a single member (so that the register must show a single address).

(5) In the case of a company that does not have a share capital but has more than one class of members, there must be entered in the register, with the names and addresses of the members, a statement of the class to which each member belongs.

(6) If a company makes default in complying with this section a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(7) A person who commits the contravention referred to in subsection (6) shall be liable to a level 2 fine.

119. Register to be kept available for inspection

(1) A company's register of members must be kept available for inspection–

(a) at its registered office, or

(b) at a place specified in rules made by the Board under section 996 (rules about where certain company records to be kept available for inspection).

(2) A company must give notice to the Registrar of the place where its register of members is kept available for inspection and of any change in that place.

(3) No such notice is required if the register has, at all times since it came into existence been kept available for inspection at the company's registered office.

(4) If a company makes default for 14 days in complying with subsection (2), a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits the contravention referred to in subsection (4) shall be liable to a level 1 fine.

120. List of members

(1) Every company having more than 50 members must keep a list of the names of the members of the company, unless the register of members is in such a form as to constitute in itself an list.

(2) The company must make any necessary alteration in the list within 14 days after the date on which any alteration is made in the register of members.

(3) The list must contain, in respect of each member, a sufficient indication to enable the account of that member in the register to be readily found.

(4) The list must be at all times kept available for inspection at the same place as the register of members.

(5) If default is made in complying with this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(6) A person who commits the contravention referred to in subsection (5) shall be liable to a level 1 fine.

121. Rights to inspect and require copies

(1) The register and the list of members' names must be open to the inspection–

(a) of any member of the company without charge, and

(b) except in the case of a restricted scope company or an investment company, of any other person on payment of such fee as may be prescribed in rules made by the Registrar.

(2) Subject to subsection (1)(b), any person may require a copy of a company's register of members, or of any part of it, on payment of such fee as may be prescribed in rules made by the Registrar.

(3) A person seeking to exercise either of the rights conferred by this section must make a request to the company to that effect.

(4) The request must contain the following information–

(a) in the case of an individual, his name and address,

(b) in the case of an organisation, the name and address of an individual responsible for making the request on behalf of the organisation,

(c) the purpose for which the information is to be used, and

(d) whether the information will be disclosed to any other person, and if so–

(i) where that person is an individual, his name and address,

(ii) where that person is an organisation, the name and address of an individual responsible for receiving the information on its behalf, and

(iii) the purpose for which the information is to be used by that person.

122. Register of members: response to request for inspection or copy

(1) Where a company receives a request under section 121 (rights to inspect and require copies), it must within five working days either–

(a) comply with the request, or

(b) apply to the Court.

A restricted scope company or investment company may decline any request made under section 121 (rights to inspect and require copies) by a person who is not a member without any need to apply to the Court.

(2) If it applies to the Court it must notify the person making the request.

(3) If on an application under this section the Court is satisfied that the inspection or copy is not sought for a proper purpose–

(a) it shall direct the company not to comply with the request, and

(b) it may further order that the company's costs on the application be paid in whole or in part by the person who made the request, even if he is not a party to the application.

(4) If the Court makes such a direction and it appears to the Court that the company is or may be subject to other requests made for a similar purpose (whether made by the same person or different persons), it may direct that the company is not to comply with any such request.

The order must contain such provision as appears to the Court appropriate to identify the requests to which it applies.

(5) If on an application under this section the Court does not direct the company not to comply with the request, the company must comply with the request immediately upon the Court giving its decision or, as the case may be, the proceedings being discontinued.

123. Register of members: refusal of inspection or default in providing copy

(1) If an inspection required under section 121 (rights to inspect and require copies) is refused or default is made in providing a copy required under that section, otherwise than in accordance with an order of the Court, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(2) A person who commits the contravention referred to in subsection (1) shall be liable to a level 2 fine.

(3) In the case of any such refusal or default the Court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requesting it.

124. Register of members: contraventions in connection with request for or disclosure of information

(1) It is a contravention of these Regulations for a person knowingly or recklessly to make in a request under section 121 (rights to inspect or require copies) a statement that is misleading, false or deceptive in a material particular.

(2) It is a contravention of these Regulations for a person in possession of information obtained by exercise of either of the rights conferred by that section–

(a) to do anything that results in the information being disclosed to another person, or

(b) to fail to do anything with the result that the information is disclosed to another person,

knowing, or having reason to suspect, that person may use the information for a purpose that is not a proper purpose.

(3) A person who commits either of the contraventions referred to in subsections (1) and (2) shall be liable to a fine of up to level 4.

125. Information as to state of register and list of members' names

(1) When a person inspects the register, or the company provides him with a copy of the register or any part of it, the company must inform him of the most recent date (if any) on which alterations were made to the register and there were no further alterations to be made.

(2) When a person inspects the list of members' names, the company must inform him whether there is any alteration to the register that is not reflected in the list.

(3) If a company fails to provide the information required under subsection (1) or (2), a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 1 fine.

(5) This section does not apply to restricted scope companies.

126. Removal of entries relating to former members

An entry relating to a former member of the company may be removed from the register after the expiration of ten years from the date on which he ceased to be a member.

127. Single member companies

(1) If a limited company is formed under these Regulations with only one member there shall be entered in the company's register of members, with the name and address of the sole member, a statement that the company has only one member.

(2) If the number of members of a limited company falls to one, or if an unlimited company with only one member becomes a limited company on re-registration, there shall upon the occurrence of that event be entered in the company's register of members, with the name and address of the sole member–

(a) a statement that the company has only one member, and

(b) the date on which the company became a company having only one member.

(3) If the membership of a limited company increases from one to two or more members, there shall upon the occurrence of that event be entered in the company's register of members, with the name and address of the person who was formerly the sole member–

(a) a statement that the company has ceased to have only one member, and

(b) the date on which that event occurred.

(4) If a company makes default in complying with this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits the contravention referred to in subsection (4) shall be liable to a level 1 fine.

128. Company holding its own shares as treasury shares

(1) Where a company purchases its own shares in circumstances in which section 666 (treasury shares) applies–

(a) the requirements of section 118 (register of members) need not be complied with if the company cancels all of the shares forthwith after the purchase, and

(b) if the company does not cancel all of the shares forthwith after the purchase, any share that is so cancelled shall be disregarded for the purposes of that section.

(2) Subject to subsection (1), where a company holds shares as treasury shares the company must be entered in the register as the member holding those shares.

129. Power of Court to rectify register

(1) If–

(a) the name of any person is, without sufficient cause, entered in or omitted from a company's register of members, or

(b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member,

the person aggrieved, or any member of the company, or the company, may apply to the Court for rectification of the register.

(2) The Court may either refuse the application or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved.

(3) On such an application the Court may decide any question relating to the title of a person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand, and generally may decide any question necessary or expedient to be decided for rectification of the register.

(4) In the case of a company required by these Regulations to send a list of its members to the Registrar of companies, the Court, when making an order for rectification of the register, shall by its order direct notice of the rectification to be given to the Registrar.

130. Trusts not to be entered on register

No notice of any trust, expressed, implied or constructive, shall be entered on the register of members of a company or be receivable by the Registrar.

131. Register to be evidence

The register of members is prima facie evidence of any matters which are by these Regulations directed or authorised to be inserted in it.

132. Time limit for claims arising from entry in register

(1) Liability incurred by a company–

(a) from the making or deletion of an entry in the register of members, or

(b) from a failure to make or delete any such entry,

is not enforceable more than ten years after the date on which the entry was made or deleted or, as the case may be, the failure first occurred.

(2) This is without prejudice to any lesser period of limitation.

CHAPTER 3

PROHIBITION ON SUBSIDIARY BEING MEMBER OF ITS HOLDING COMPANY

General prohibition

133. Prohibition on subsidiary being a member of its holding company

(1) Except as provided by this Chapter–

(a) a body corporate cannot be a member of a company that is its holding company, and

(b) any allotment or transfer of shares in a company to its subsidiary is void.

(2) The exceptions are provided for in–

(a) section 134 (subsidiary acting as personal representative or trustee), and

(b) section 137 (subsidiary acting as authorised dealer in securities).

Subsidiary acting as personal representative or trustee

134. Subsidiary acting as personal representative or trustee

(1) The prohibition in section 133 (prohibition on subsidiary being a member of its holding company) does not apply where the subsidiary is concerned only–

(a) as personal representative, or

(b) as trustee,

unless, in the latter case, the holding company or a subsidiary of it is beneficially interested under the trust.

(2) For the purpose of ascertaining whether the holding company or a subsidiary is so interested, there shall be disregarded–

(a) any interest held only by way of security for the purposes of a transaction entered into by the holding company or subsidiary in the ordinary course of a business that includes the lending of money,

(b) any interest within–

section 135 (interests to be disregarded: residual interest under pension scheme or employees' share scheme), or

section 136 (interests to be disregarded: employer's rights of recovery under pension scheme or employees' share scheme),

(c) any rights that the company or subsidiary has in its capacity as trustee, including in particular–

(i) any right to recover its expenses or be remunerated out of the trust property, and

(ii) any right to be indemnified out of the trust property for any liability incurred by reason of any act or omission in the performance of its duties as trustee.

135. Interests to be disregarded: residual interest under pension scheme or employees' share scheme

(1) Where shares in a company are held on trust for the purposes of a pension scheme or employees' share scheme, there shall be disregarded for the purposes of section 134 (subsidiary acting as personal representative or trustee) any residual interest that has not vested in possession.

(2) A "residual interest" means a right of the company or subsidiary ("the residual beneficiary") to receive any of the trust property in the event of–

(a) all the liabilities arising under the scheme having been satisfied or provided for, or

(b) the residual beneficiary ceasing to participate in the scheme, or

(c) the trust property at any time exceeding what is necessary for satisfying the liabilities arising or expected to arise under the scheme.

(3) In subsection (2)–

(a) the reference to a right includes a right dependent on the exercise of a discretion vested by the scheme in the trustee or another person, and

(b) the reference to liabilities arising under a scheme includes liabilities that have resulted, or may result, from the exercise of any such discretion.

(4) For the purposes of this section a residual interest vests in possession–

(a) in a case within subsection (2)(a), on the occurrence of the event mentioned there (whether or not the amount of the property receivable pursuant to the right is ascertained),

(b) in a case within subsection (2)(b) or (c), when the residual beneficiary becomes entitled to require the trustee to transfer to him any of the property receivable pursuant to the right.

(5) In this section "pension scheme" means a scheme for the provision of benefits consisting of or including relevant benefits for or in respect of employees or former employees.

(6) In subsection (5)–

(a) "relevant benefits" means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death or in anticipation of retirement or, in connection with past service, after retirement or death, and

(b) "employee" shall be read as if a director of a company were employed by it.

136. Interests to be disregarded: employer's rights of recovery under pension scheme or employees' share scheme

(1) Where shares in a company are held on trust for the purposes of a pension scheme or employees' share scheme, there shall be disregarded for the purposes of section 134 (subsidiary acting as personal representative or trustee) any charge or lien on, or set-off against, any benefit or other right or interest under the scheme for the purpose of enabling the employer or former employer of a member of the scheme to obtain the discharge of a monetary obligation due to him from the member.

(2) In this section "pension scheme" means a scheme for the provision of benefits consisting of or including relevant benefits for or in respect of employees or former employees.

"Relevant benefits" here means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death or in anticipation of retirement or, in connection with past service, after retirement or death.

(3) In this section "employer" and "employee" shall be read as if a director of a company were employed by it.

137. Subsidiary acting as authorised dealer in securities

(1) The prohibition in section 133 (prohibition on subsidiary being a member of its holding company) does not apply where the shares are held by the subsidiary in the ordinary course of its business as an intermediary.

(2) For this purpose a person is an intermediary if he–

(a) carries on a bona fide business of dealing in Securities and Derivatives,

(b) is a member of or has access to a recognised investment exchange, and

(c) does not carry on an excluded business.

(3) The following are excluded businesses–

(a) a business that consists wholly or mainly in the making or managing of investments,

(b) a business that consists wholly or mainly in, or is carried on wholly or mainly for the purposes of, providing services to persons who are connected with the person carrying on the business,

(c) a business that consists in insurance business,

(d) a business that consists in managing or acting as trustee in relation to a pension scheme, or that is carried on by the manager or trustee of such a scheme in connection with or for the purposes of the scheme,

(e) a business that consists in Managing a Collective Investment Fund, Acting as the Administrator of a Collective Investment Fund or Acting as the Trustee of an Investment Trust, or that is carried on by a person carrying on any of those Regulated Activities in connection with and for the purposes of the relevant Collective Investment Fund.

(4) For the purposes of this section–

(a) "insurance business" means business that consists in Effecting Contracts of Insurance or Carrying Out Contracts of Insurance as Principal, and

(aa) "managing of investments" means the Regulated Activity of Managing Assets.

138. Protection of third parties in other cases where subsidiary acting as dealer in securities

(1) This section applies where–

(a) a subsidiary that is a dealer in securities has purportedly acquired shares in its holding company in contravention of the prohibition in section 133 (prohibition on subsidiary being a member of its holding company), and

(b) a person acting in good faith has agreed, for value and without notice of the contravention, to acquire shares in the holding company–

(i) from the subsidiary, or

(ii) from someone who has purportedly acquired the shares after their disposal by the subsidiary.

(2) A transfer to that person of the shares mentioned in subsection (1)(a) has the same effect as it would have had if their original acquisition by the subsidiary had not been in contravention of the prohibition.

139. Application of provisions to companies not limited by shares

In relation to a company other than a company limited by shares, the references in this Chapter to shares shall be read as references to the interest of its members as such, whatever the form of that interest.

140. Application of provisions to nominees

The provisions of this Chapter apply to a nominee acting on behalf of a subsidiary as to the subsidiary itself.

PART 9

EXERCISE OF MEMBERS' RIGHTS

Effect of provisions in company's articles

141. Effect of provisions of articles as to enjoyment or exercise of members' rights

(1) This section applies where provision is made by a company's articles enabling a member to nominate another person or persons as entitled to enjoy or exercise all or any specified rights of the member in relation to the company.

(2) So far as is necessary to give effect to that provision, anything required or authorised by any provision of these Regulations to be done by or in relation to the member shall instead be done, or (as the case may be) may instead be done, by or in relation to the nominated person (or each of them) as if he were a member of the company.

(3) This applies, in particular, to the rights conferred by–

(a) sections 308 (circulation of written resolutions proposed by directors) and 310 (circulation of written resolutions proposed by members),

(b) section 309 (members' power to require circulation of written resolution),

(c) section 320 (members' power to require directors to call general meeting),

(d) section 327 (persons entitled to receive notice of meetings),

(e) section 331 (members' power to require circulation of statements),

(f) section 342 (rights to appoint proxies),

(g) section 357 (public companies: members' power to require circulation of resolutions for AGMs), and

(h) section 405 (duty to circulate copies of annual accounts and reports).

(4) This section and any such provision as is mentioned in subsection (1)–

(a) do not confer rights enforceable against the company by anyone other than the member, and

(b) do not affect the requirements for an effective transfer or other disposition of the whole or part of a member's interest in the company.

Exercise of rights where shares held on behalf of others

142. Exercise of rights where shares held on behalf of others: exercise in different ways

(1) Where a member holds shares in a company on behalf of more than one person–

(a) rights attached to the shares, and

(b) rights under any law or regulation applicable to the Abu Dhabi Global Market exercisable by virtue of holding the shares,

need not all be exercised, and if exercised, need not all be exercised in the same way.

(2) A member who exercises such rights but does not exercise all his rights, must inform the company to what extent he is exercising the rights.

(3) A member who exercises such rights in different ways must inform the company of the ways in which he is exercising them and to what extent they are exercised in each way.

(4) If a member exercises such rights without informing the company–

(a) that he is not exercising all his rights, or

(b) that he is exercising his rights in different ways,

the company is entitled to assume that he is exercising all his rights and is exercising them in the same way.

143. Exercise of rights where shares held on behalf of others: members' requests

(1) This section applies for the purposes of–

(a) section 331 (members' power to require circulation of statements), and

(b) section 357 (public companies: power to require circulation of resolution for AGMs).

(2) A company is required to act under any of those sections if it receives a request in relation to which the following conditions are met–

(a) it is made by at least 100 persons,

(b) it is authenticated by all the persons making it,

(c) in the case of any of those persons who is not a member of the company, it is accompanied by a statement–

(i) of the full name and address of a person ("the member") who is a member of the company and holds shares on behalf of that person,

(ii) that the member is holding those shares on behalf of that person in the course of a business,

(iii) of the number of shares in the company that the member holds on behalf of that person,

(iv) of the total amount paid up on those shares,

(v) that those shares are not held on behalf of anyone else or, if they are, that the other person or persons are not among the other persons making the request,

(vi) that some or all of those shares confer voting rights that are relevant for the purposes of making a request under the section in question, and

(vii) that the person has the right to instruct the member how to exercise those rights,

(d) in the case of any of those persons who is a member of the company, it is accompanied by a statement–

(i) that he holds shares otherwise than on behalf of another person, or

(ii) that he holds shares on behalf of one or more other persons but those persons are not among the other persons making the request,

(e) it is accompanied by such evidence as the company may reasonably require of the matters mentioned in subsection (c) and (d),

(f) the total amount of the sums paid up on–

(i) shares held as mentioned in subsection (c), and

(ii) shares held as mentioned in subsection (d),

divided by the number of persons making the request, is not less than 100 US dollars,

(g) the request complies with any other requirements of the section in question as to contents, timing and otherwise.

Part 10

A COMPANY'S DIRECTORS

Chapter 1

APPOINTMENT AND REMOVAL OF DIRECTORS

Requirement to have directors

144. Companies required to have directors

(1) A private company must have at least one director.

(2) A public company must have at least two directors.

145. Companies required to have at least one director who is a natural person

A company must have at least one director who is a natural person.

146. "Director"

In these Regulations "director" includes any person occupying the position of director, by whatever name called.

147. "Shadow director"

(1) In these Regulations "shadow director", in relation to a company, means a person in accordance with whose directions or instructions the directors of the company are accustomed to act.

(2) A person is not to be regarded as a shadow director by reason only that the directors act on advice given by him in a professional capacity.

(3) A body corporate is not to be regarded as a shadow director of any of its subsidiary companies for the purposes of–

(a) Chapter 2 (general duties of directors),

(b) Chapter 4 (transactions requiring members' approval), or

(c) Chapter 6 (contract with sole member who is also a director),

by reason only that the directors of the subsidiary are accustomed to act in accordance with its directions or instructions.

148. Direction requiring company to make appointment

(1) If it appears to the Registrar that a company is in breach of section 144 (companies required to have directors) or section 145 (companies required to have at least one director who is a natural person) the Registrar may give the company a direction under this section.

(2) The direction must specify–

(a) the section of these Regulations of which the company appears to be in breach,

(b) what the company must do in order to comply with the direction, and

(c) the period within which it must do so.

That period must be not less than one month or more than three months after the date on which the direction is given.

(3) The direction must also inform the company of the consequences of failing to comply.

(4) Where the company is in breach of sections 144 (companies required to have directors) or 145 (companies required to have at least one director who is a natural person) it must comply with the direction by–

(a) making the necessary appointment or appointments, and

(b) giving notice of such appointment or appointments if required under section 157 (duty to notify Registrar of changes),

before the end of the period specified in the direction.

(5) If the company has already made the necessary appointment or appointments (or so far as it has done so), it must comply with the direction by giving notice of it under section 157 (duty to notify Registrar of changes) before the end of the period specified in the direction.

(6) If a company fails to comply with a direction under this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(7) A person who commits the contravention referred to in subsection (6) shall be liable to a fine of up to level 4.

149. Minimum age for natural persons for appointment as director

(1) A natural person may not be appointed a director of a company unless he has attained the age of 18 years.

(2) This does not affect the validity of an appointment that is not to take effect until the person appointed attains that age.

(3) Where the office of director of a company is held by a corporation sole, or otherwise by virtue of another office, the appointment to that other office of a person who has not attained the age of 18 years is not effective also to make him a director of the company until he attains the age of 18 years.

(4) An appointment made in contravention of this section is void.

(5) Nothing in this section affects any liability of a person under any provision of these Regulations if he–

(a) purports to act as director, or

(b) acts as a shadow director,

although he could not, by virtue of this section, be validly appointed as a director.

(6) This section has effect subject to section 150 (power to provide for exceptions from minimum age requirement).

150. Power to provide for exceptions from minimum age requirement

(1) The Board may make rules providing for cases in which a person who has not attained the age of 18 years may be appointed a director of a company.

(2) The rules must specify the circumstances in which, and any conditions subject to which, the appointment may be made.

(3) If the specified circumstances cease to obtain, or any specified conditions cease to be met, a person who was appointed by virtue of the rules and who has not since attained the age of 18 years ceases to hold office.

151. Appointment of directors of public company to be voted on individually

(1) At a general meeting of a public company a motion for the appointment of two or more persons as directors of the company by a single resolution must not be made unless a resolution that it should be so made has first been agreed to by the meeting without any vote being given against it.

(2) A resolution moved in contravention of this section is void, whether or not its being so moved was objected to at the time, but where a resolution so moved is passed, no provision for the automatic reappointment of retiring directors in default of another appointment applies.

(3) For the purposes of this section a motion for approving a person's appointment, or for nominating a person for appointment, is treated as a motion for his appointment.

(4) Nothing in this section applies to a resolution amending the company's articles.

152. Validity of acts of directors

(1) The acts of a person acting as a director are valid notwithstanding that it is afterwards discovered–

(a) that there was a defect in his appointment,

(b) that he was disqualified from holding office,

(c) that he had ceased to hold office, and

(d) that he was not entitled to vote on the matter in question.

(2) This applies even if the resolution for his appointment is void under section 151 (appointment of directors of public company to be voted on individually).

153. Register of directors

(1) Every company must keep a register of its directors.

(2) The register must contain the required particulars (see sections 154 (particulars of directors to be registered: individuals), 155 (particulars of directors to be registered: corporate directors and firms) and 156 (register of directors' residential addresses)) of each person who is a director of the company.

(3) The register must be kept available for inspection–

(a) at the company's registered office, or

(b) at a place specified in rules made by the Board under section 996 (rules about where certain company records to be kept available for inspection).

(4) The company must give notice to the Registrar–

(a) of the place at which the register is kept available for inspection, and

(b) of any change in that place,

unless it has at all times been kept at the company's registered office.

(5) The register must be open to the inspection–

(a) of any member of the company without charge, and

(b) of any other person on payment of such fee as may be prescribed.

(6) If default is made in complying with subsection (1), (2) or (3) or if default is made for 14 days in complying with subsection (4), or if an inspection required under subsection (5) is refused, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(7) A person who commits the contravention referred to in subsection (6) is liable to a level 1 fine.

(8) In the case of a refusal of inspection of the register, the Court may by order compel an immediate inspection of it.

(9) Subsection (5)(b) shall not apply to a restricted scope company.

154. Particulars of directors to be registered: individuals[2]

(1) A company's register of directors must contain the following particulars in the case of an individual–

(a) name and any former name,

(b) a service address, which must be a PO Box address for directors resident in the United Arab Emirates,

(c) the country or state in which he is usually resident,

(d) nationality,

(e) business occupation (if any),

(f) date of birth.

(2) For the purposes of this section "name" means a person's forename and surname.

(3) For the purposes of this section a "former name" means a name by which the individual was formerly known for business purposes. Where a person is or was formerly known by more than one such name, each of them must be stated.

(4) It is not necessary for the register to contain particulars of a former name in the following cases–

(a) in the case of any person, where the former name–

(i) was changed or disused before the person attained the age of 18 years, or

(ii) has been changed or disused for 20 years or more.

(5) A person's service address may be stated as the company's registered office or the office of its company service provider located in Abu Dhabi Global Market.

155. Particulars of directors to be registered: corporate directors and firms

A company's register of directors must contain the following particulars in the case of a body corporate, or a firm that is a legal person under the law by which it is governed–

(a) corporate or firm name,

(b) registered or principal office,

(c) particulars of–

(i) the legal form of the company or firm and the law by which it is governed, and

(ii) if applicable, the register in which it is entered (including details of the state) and its registration number in that register.

[2] Amended 12 April 2021

156. Register of directors' residential addresses[3]

(1) Every company must keep a register of directors' residential addresses.

(2) The register must state the usual residential address of each of the company's directors.

(3) If a director's usual residential address is the same as his service address (as stated in the company's register of directors), the register of directors' residential addresses need only contain an entry to that effect. This does not apply if his service address is stated to be "The company's registered office" or the office of its company service provider located in Abu Dhabi Global Market.

(4) If default is made in complying with this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(5) A person who commits the contravention referred to in subsection (4) is liable to a level 1 fine.

(6) This section applies only to directors who are individuals, not where the director is a body corporate or a firm that is a legal person under the law by which it is governed.

157. Duty to notify Registrar of changes

(1) A company must, within the period of 14 days from–

(a) a person becoming or ceasing to be a director, or

(b) the occurrence of any change in the particulars contained in its register of directors or its register of directors' residential addresses,

give notice to the Registrar of the change and of the date on which it occurred.

(2) Notice of a person having become a director of the company must–

(a) contain a statement of the particulars of the new director that are required to be included in the company's register of directors and its register of directors' residential addresses, and

(b) be accompanied by a consent, by that person, to act in that capacity.

(3) Where–

(a) a company gives notice of a change of a director's service address as stated in the company's register of directors, and

(b) the notice is not accompanied by notice of any resulting change in the particulars contained in the company's register of directors' residential addresses,

the notice must be accompanied by a statement that no such change is required.

(4) If default is made in complying with this section, a contravention of these Regulations is committed by–

[3] Amended 12 April 2021

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(5) A person who commits the contravention referred to in subsection (4) is liable to a level 1 fine.

158. Resolution to remove director

(1) A company may by ordinary resolution at a meeting remove a director before the expiration of his period of office, notwithstanding anything in any agreement between it and him.

(2) Special notice is required of a resolution to remove a director under this section or to appoint somebody instead of a director so removed at the meeting at which he is removed.

(3) A vacancy created by the removal of a director under this section, if not filled at the meeting at which he is removed, may be filled as a casual vacancy.

(4) A person appointed director in place of a person removed under this section is treated, for the purpose of determining the time at which he or any other director is to retire, as if he had become director on the day on which the person in whose place he is appointed was last appointed a director.

(5) This section is not to be taken–

(a) as depriving a person removed under it of compensation or damages payable to him in respect of the termination of his appointment as director or of any appointment terminating with that as director, or

(b) as derogating from any power to remove a director that may exist apart from this section.

159. Director's right to protest against removal

(1) On receipt of notice of an intended resolution to remove a director under section 158, (resolution to remove director) the company must forthwith send a copy of the notice to the director concerned.

(2) The director (whether or not a member of the company) is entitled to be heard on the resolution at the meeting.

(3) Where notice is given of an intended resolution to remove a director under that section, and the director concerned makes with respect to it representations in writing to the company (not exceeding a reasonable length) and requests their notification to members of the company, the company shall, unless the representations are received by it too late for it to do so–

(a) in any notice of the resolution given to members of the company state the fact of the representations having been made, and

(b) send a copy of the representations to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representations by the company).

(4) If a copy of the representations is not sent as required by subsection (3) because received too late or because of the company's default, the director may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting.

(5) Copies of the representations need not be sent out and the representations need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the Court is satisfied that the rights conferred by this section are being abused.

(6) The Court may order the company's costs on an application under subsection (5) to be paid in whole or in part by the director, notwithstanding that he is not a party to the application.

Chapter 2

GENERAL DUTIES OF DIRECTORS

Introductory

160. Scope and nature of general duties

(1) The general duties specified in sections 161 (duty to act within powers) to 167 (duty to declare interest in proposed transaction or arrangement) are owed by a director of a company to the company.

(2) A person who ceases to be a director continues to be subject–

(a) to the duty in section 165 (duty to avoid conflicts of interest) as regards the exploitation of any property, information or opportunity of which he became aware at a time when he was a director, and

(b) to the duty in section 166 (duty not to accept benefits from third parties) as regards things done or omitted by him before he ceased to be a director.

To that extent those duties apply to a former director as to a director, subject to any necessary adaptations.

(3) The general duties are based on certain common law rules and equitable principles as they apply in relation to directors and have effect in place of those rules and principles as regards the duties owed to a company by a director.

(4) The general duties shall be interpreted and applied in the same way as common law rules or equitable principles, and regard shall be had to the corresponding common law rules and equitable principles in interpreting and applying the general duties.

(5) The general duties apply to shadow directors where, and to the extent that, the corresponding common law rules or equitable principles so apply.

161. Duty to act within powers

A director of a company must–

(a) act in accordance with the company's constitution, and

(b) only exercise powers for the purposes for which they are conferred.

162. Duty to promote the success of the company

(1) A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to–

(a) the likely consequences of any decision in the long term,

(b) the interests of the company's employees,

(c) the need to foster the company's business relationships with suppliers, customers and others,

(d) the impact of the company's operations on the community and the environment,

(e) the desirability of the company maintaining a reputation for high standards of business conduct, and

(f) the need to act fairly as between members of the company.

(2) Where or to the extent that the purposes of the company consist of or include purposes other than the benefit of its members, subsection (1) has effect as if the reference to promoting the success of the company for the benefit of its members were to achieving those purposes.

(3) The duty imposed by this section has effect subject to any rule of law applicable in the Abu Dhabi Global Market requiring directors, in certain circumstances, to consider or act in the interests of creditors of the company.

163. Duty to exercise independent judgment

(1) A director of a company must exercise independent judgment.

(2) This duty is not infringed by his acting–

(a) in accordance with an agreement duly entered into by the company that restricts the future exercise of discretion by its directors, or

(b) in a way authorised by the company's constitution.

164. Duty to exercise reasonable care, skill and diligence

(1) A director of a company must exercise reasonable care, skill and diligence.

(2) This means the care, skill and diligence that would be exercised by a reasonably diligent person with–

(a) the general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions carried out by the director in relation to the company, and

(b) the general knowledge, skill and experience that the director has.

165. Duty to avoid conflicts of interest

(1) A director of a company must not act on behalf of a company, or exercise any of his powers as a director, in relation to any matter in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company.

(2) This applies in particular to the exploitation of any property, information or opportunity (and it is immaterial whether the company could take advantage of the property, information or opportunity).

(3) This duty does not apply to a conflict of interest arising in relation to a transaction or arrangement with the company.

(4) This duty is not infringed–

(a) if the situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or

(b) if the matter has been authorised by the directors who do not have a direct or indirect interest that conflicts with the interests of the company in such matter ("non-conflicted directors"), or

(c) if the matter is authorised by the members.

(5) Authorisation may be given by the non-conflicted directors–

(a) where the company is a private company and nothing in the company's constitution invalidates such authorisation, by the matter being proposed to and authorised by the non-conflicted directors, or

(b) where the company is a public company and its constitution includes provision enabling the non-conflicted directors to authorise the matter, by the matter being proposed to and authorised by them in accordance with the constitution.

(6) The authorisation is effective only if–

(a) any requirement as to the quorum at the meeting at which the matter is considered is met without counting the director in question or any other director with a direct or indirect interest that conflicts with the interests of the company in such matter, and

(b) the matter was agreed to without their voting or would have been agreed to if their votes had not been counted.

(7) Any reference in this section to a conflict of interest includes a conflict of interest and duty and a conflict of duties.

166. Duty not to accept benefits from third parties

(1) A director of a company must not accept a benefit from a third party conferred by reason of–

(a) his being a director, or

(b) his doing (or not doing) anything as director.

(2) A "third party" means a person other than the company, an associated body corporate or a person acting on behalf of the company or an associated body corporate.

(3) Benefits received by a director from a person by whom his services (as a director or otherwise) are provided to the company are not regarded as conferred by a third party.

(4) This duty is not infringed if the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

(5) Any reference in this section to a conflict of interest includes a conflict of interest and duty and a conflict of duties.

167. Duty to declare interest in proposed transaction or arrangement

(1) If a director of a company is in any way, directly or indirectly, interested in a proposed transaction or arrangement with the company, he must declare the nature and extent of that interest to the other directors.

(2) The declaration may (but need not) be made–

(a) at a meeting of the directors, or

(b) by notice to the directors in accordance with–

(i) section 173 (declaration made by notice in writing), or

(ii) section 174 (general notice treated as sufficient declaration).

(3) If a declaration of interest under this section proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.

(4) Any declaration required by this section must be made before the company enters into the transaction or arrangement.

(5) This section does not require a declaration of an interest of which the director is not aware or where the director is not aware of the transaction or arrangement in question.

For this purpose a director is treated as being aware of matters of which he ought reasonably to be aware.

(6) A director need not declare an interest–

(a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest,

(b) if, or to the extent that, the other directors are already aware of it (and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware), or

(c) if, or to the extent that, it concerns terms of his service contract that have been or are to be considered–

(i) by a meeting of the directors, or

(ii) by a committee of the directors appointed for the purpose under the company's constitution.

168. Consequences of breach of general duties

(1) The consequences of breach (or threatened breach) of sections 161 (duty to act within powers) to 167 (duty to declare interest in proposed transaction or arrangement) are the same as would apply if the corresponding common law rule or equitable principle applied pursuant to the laws applicable in the Abu Dhabi Global Market.

(2) The duties in those sections, (with the exception of section 164 (duty to exercise reasonable care, skill and diligence)), are, accordingly, enforceable in the same way as any other fiduciary duty owed to a company by its directors.

169. Cases within more than one of the general duties

Except as otherwise provided, more than one of the general duties may apply in any given case.

170. Consent, approval or authorisation by members

(1) In a case where–

(a) section 165 (duty to avoid conflicts of interest) is complied with by authorisation by the directors, or

(b) section 167 (duty to declare interest in proposed transaction or arrangement) is complied with,

the transaction or arrangement is not liable to be set aside by virtue of any common law rule or equitable principle requiring the consent or approval of the members of the company.

This is without prejudice to any law or regulation applicable to the Abu Dhabi Global Market, or provision of the company's constitution, requiring such consent or approval.

(2) The application of the general duties is not affected by the fact that the case also falls within Chapter 4 (transactions requiring approval of members), except that where either of those Chapters applies and–

(a) approval is given under the Chapter concerned, or

(b) the matter is one as to which it is provided that approval is not needed,

it is not necessary also to comply with section 165 (duty to avoid conflicts of interest) or section 166 (duty not to accept benefits from third parties).

(3) Compliance with the general duties does not remove the need for approval under any applicable provision of Chapter 4 (transactions requiring approval of members).

(4) The general duties–

(a) have effect subject to any rule of law enabling the company to give authority, specifically or generally, for anything to be done (or omitted) by the directors, or any of them, that would otherwise be a breach of duty, and

(b) where the company's articles contain provisions for dealing with conflicts of interest, are not infringed by anything done (or omitted) by the directors, or any of them, in accordance with those provisions.

(5) Otherwise, the general duties have effect (except as otherwise provided or the context otherwise requires) notwithstanding any rule of law applicable in the Abu Dhabi Global Market.

Chapter 3

DECLARATION OF INTEREST IN EXISTING TRANSACTION OR ARRANGEMENT

171. Declaration of interest in existing transaction or arrangement

(1) Where a director of a company is in any way, directly or indirectly, interested in a transaction or arrangement that has been entered into by the company, he must declare the nature and extent of the interest to the other directors in accordance with this section.

This section does not apply if or to the extent that the interest has been declared under section 167 (duty to declare interest in proposed transaction or arrangement).

(2) The declaration must be made–

(a) at a meeting of the directors, or

(b) by notice in writing (see section 173 (declaration made by notice in writing)), or

(c) by general notice (see section 174 (general notice treated as sufficient declaration)).

(3) If a declaration of interest under this section proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.

(4) Any declaration required by this section must be made as soon as is reasonably practicable.

Failure to comply with this requirement does not affect the underlying duty to make the declaration.

(5) This section does not require a declaration of an interest of which the director is not aware or where the director is not aware of the transaction or arrangement in question.

For this purpose a director is treated as being aware of matters of which he ought reasonably to be aware.

(6) A director need not declare an interest under this section–

(a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest,

(b) if, or to the extent that, the other directors are already aware of it (and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware), or

(c) if, or to the extent that, it concerns terms of his service contract that have been or are to be considered–

(i) by a meeting of the directors, or

(ii) by a committee of the directors appointed for the purpose under the company's constitution.

172. Failure to declare interest

(1) A director who fails to comply with the requirements of section 171 (declaration of interest in existing transaction or arrangement) commits a contravention of these Regulations.

(2) A person who commits the contravention referred to in subsection (1) shall be liable to a level 2 fine.

173. Declaration made by notice in writing

(1) This section applies to a declaration of interest made by notice in writing.

(2) The director must send the notice to the other directors.

(3) The notice may be sent in hard copy form or, if the recipient has agreed to receive it in electronic form, in an agreed electronic form.

(4) The notice may be sent–

(a) by hand or by post, or

(b) if the recipient has agreed to receive it by electronic means, by agreed electronic means.

(5) Where a director declares an interest by notice in writing in accordance with this section–

(a) the making of the declaration is deemed to form part of the proceedings at the next meeting of the directors after the notice is given, and

(b) the provisions of section 272 (minutes of directors' meetings) apply as if the declaration had been made at that meeting.

174. General notice treated as sufficient declaration

(1) General notice in accordance with this section is a sufficient declaration of interest in relation to the matters to which it relates.

(2) General notice is notice given to the directors of a company to the effect that the director–

(a) has an interest (as member, officer, employee or otherwise) in a specified body corporate or firm and is to be regarded as interested in any transaction or arrangement that may, after the date of the notice, be made with that body corporate or firm, or

(b) is connected with a specified person (other than a body corporate or firm) and is to be regarded as interested in any transaction or arrangement that may, after the date of the notice, be made with that person.

(3) The notice must state the nature and extent of the director's interest in the body corporate or firm or, as the case may be, the nature of his connection with the person.

(4) General notice is not effective unless–

(a) it is given at a meeting of the directors, or

(b) the director takes reasonable steps to secure that it is brought up and read at the next meeting of the directors after it is given.

175. Declaration of interest in case of company with sole director

(1) Where a declaration of interest under section 171 (declaration of interest in existing transaction or arrangement) is required of a sole director of a company that is required to have more than one director–

(a) the declaration must be recorded in writing,

(b) the making of the declaration is deemed to form part of the proceedings at the next meeting of the directors after the notice is given, and

(c) the provisions of section 272 (minutes of directors' meetings) apply as if the declaration had been made at that meeting.

(2) Nothing in this section affects the operation of section 218 (contract with sole member who is also a director).

176. Declaration of interest in existing transaction by shadow director

(1) The provisions of this Chapter relating to the duty under section 171 (declaration of interest in existing transaction or arrangement) apply to a shadow director as to a director, but with the following adaptations.

(2) Subsection (2)(a) at section 171 (declaration of interest in existing transaction or arrangement) does not apply.

(3) In section 174 (general notice treated as sufficient declaration), subsection (4) (notice to be given at or brought up and read at meeting of directors) does not apply.

(4) General notice by a shadow director is not effective unless given by notice in writing in accordance with section 173 (declaration made by notice in writing).

Chapter 4

TRANSACTIONS WITH DIRECTORS REQUIRING APPROVAL OF MEMBERS

Service contracts

177. Directors' long-term service contracts: requirement of members' approval

(1) This section applies to provision under which the guaranteed term of a director's employment–

(a) with the company of which he is a director, or

(b) where he is the director of a holding company, within the group consisting of that company and its subsidiaries,

is, or may be, longer than two years.

(2) A company may not agree to such provision unless it has been approved–

(a) by resolution of the members of the company, and

(b) in the case of a director of a holding company, by resolution of the members of that company.

(3) The guaranteed term of a director's employment is–

(a) the period (if any) during which the director's employment–

(i) is to continue, or may be continued otherwise than at the instance of the company (whether under the original agreement or under a new agreement entered into in pursuance of it), and

(ii) cannot be terminated by the company by notice, or can be so terminated only in specified circumstances, or

(b) in the case of employment terminable by the company by notice, the period of notice required to be given,

or, in the case of employment having a period within subsection (3)(a) and a period within subsection (3)(b), the aggregate of those periods.

(4) If more than six months before the end of the guaranteed term of a director's employment the company enters into a further service contract (otherwise than in pursuance of a right conferred, by or under the original contract, on the other party to it), this section applies as if there were added to the guaranteed term of the new contract the unexpired period of the guaranteed term of the original contract.

(5) A resolution approving provision to which this section applies must not be passed unless a memorandum setting out the proposed contract incorporating the provision is made available to members–

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him,

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both–

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(6) No approval is required under this section on the part of the members of a body corporate that–

(a) is not a company registered in the Abu Dhabi Global Market,

(b) is a wholly-owned subsidiary of another body corporate, or

(c) is a restricted scope company.

(7) In this section "employment" means any employment under a director's service contract.

178. Directors' long-term service contracts: consequences of contravention

If a company agrees to provision in contravention of section 177 (directors' long-term service contracts)–

(a) the provision is void, to the extent of the contravention, and

(b) the contract is deemed to contain a term entitling the company to terminate it at any time by the giving of reasonable notice.

179. Substantial property transactions: requirement of members' approval

(1) A company may not enter into an arrangement under which–

(a) a director of the company or of its holding company, or a person connected with such a director, acquires or is to acquire from the company (directly or indirectly) a substantial non-cash asset, or

(b) the company acquires or is to acquire a substantial non-cash asset (directly or indirectly) from such a director or a person so connected,

unless the arrangement has been approved by a resolution of the members of the company or is conditional on such approval being obtained.

For the meaning of "substantial non-cash asset" see section 180 (meaning of substantial).

(2) If the director or connected person is a director of the company's holding company or a person connected with such a director, the arrangement must also have been approved by a resolution of the members of the holding company or be conditional on such approval being obtained.

(3) A company shall not be subject to any liability by reason of a failure to obtain approval required by this section.

(4) No approval is required under this section on the part of the members of a body corporate that–

(a) is not a company registered in the Abu Dhabi Global Market,

(b) is a wholly-owned subsidiary of another body corporate, or

(c) is a restricted scope company.

(5) For the purposes of this section–

(a) an arrangement involving more than one non-cash asset, or

(b) an arrangement that is one of a series involving non-cash assets,

shall be treated as if they involved a non-cash asset of a value equal to the aggregate value of all the non-cash assets involved in the arrangement or, as the case may be, the series.

(6) This section does not apply to a transaction so far as it relates–

(a) to anything to which a director of a company is entitled under his service contract, or

(b) to payment for loss of office as defined in section 203 (payments for loss of office).

180. Meaning of "substantial"

(1) This section explains what is meant in section 179 (substantial property transactions) by a "substantial non-cash asset".

(2) An asset is a substantial asset in relation to a company if its value–

(a) exceeds 10% of the company's asset value and is more than 5,000 US dollars, or

(b) exceeds 100,000 US dollars.

(3) For this purpose a company's "asset value" at any time is–

(a) the value of the company's net assets determined by reference to its most recent statutory accounts, or

(b) if no statutory accounts have been prepared or are required to be prepared, the amount of the company's called-up share capital.

(4) A company's "statutory accounts" means its annual accounts prepared in accordance with Part 14, and its "most recent" statutory accounts means those in relation to which the time for sending them out to members (see section 406 (time allowed for sending out copies of accounts and reports)) is most recent.

(5) Whether an asset is a substantial asset shall be determined as at the time the arrangement is entered into.

181. Exception for transactions with members or other group companies

Approval is not required under section 179 (substantial property transactions)–

(a) for a transaction between a company and a person in his character as a member of that company, or

(b) for a transaction between–

(i) a holding company and its wholly-owned subsidiary, or

(ii) two wholly-owned subsidiaries of the same holding company.

182. Exception in case of company in winding up or administration

(1) This section applies to a company–

(a) that is being wound up (unless the winding up is a members' voluntary winding up), or

(b) that is in administration within the meaning of the Insolvency Regulations 2015.

(2) Approval is not required under section 179 (substantial property transactions)–

(a) on the part of the members of a company to which this section applies, or

(b) for an arrangement entered into by a company to which this section applies.

183. Exception for transactions on recognised investment exchange

(1) Approval is not required under section 179 (substantial property transactions) for a transaction on a recognised investment exchange effected by a director, or a person connected with him, through the agency of a person who in relation to the transaction acts as an independent broker.

(2) For this purpose "independent broker" means a person who, independently of the director or any person connected with him, selects the person with whom the transaction is to be effected.

184. Property transactions: consequences of contravention

(1) This section applies where a company enters into an arrangement in contravention of section 179 (substantial property transactions).

(2) The arrangement, and any transaction entered into in pursuance of the arrangement (whether by the company or any other person), is voidable at the instance of the company, unless–

(a) restitution of any money or other asset that was the subject matter of the arrangement or transaction is no longer possible,

(b) the company has been indemnified in pursuance of this section by any other persons for the loss or damage suffered by it, or

(c) rights acquired in good faith, for value and without actual notice of the contravention by a person who is not a party to the arrangement or transaction would be affected by the avoidance.

(3) Whether or not the arrangement or any such transaction has been avoided, each of the persons specified in subsection (4) is liable–

(a) to account to the company for any gain that he has made directly or indirectly by the arrangement or transaction, and

(b) (jointly and severally with any other person so liable under this section) to indemnify the company for any loss or damage resulting from the arrangement or transaction.

(4) The persons so liable are–

(a) any director of the company or of its holding company with whom the company entered into the arrangement in contravention of section 179 (substantial property transactions),

(b) any person with whom the company entered into the arrangement in contravention of that section who is connected with a director of the company or of its holding company,

(c) the director of the company or of its holding company with whom any such person is connected, and

(d) any other director of the company who authorised the arrangement or any transaction entered into in pursuance of such an arrangement.

(5) Subsections (3) and (4) are subject to the following two subsections.

(6) In the case of an arrangement entered into by a company in contravention of section 179 (substantial property transactions) with a person connected with a director of the company or of its holding company, that director is not liable by virtue of subsection (4)(c) if he shows that he took all reasonable steps to secure the company's compliance with that section.

(7) In any case–

(a) a person so connected is not liable by virtue of subsection (4)(b), and

(b) a director is not liable by virtue of subsection (4)(d),

if he shows that, at the time the arrangement was entered into, he did not know the relevant circumstances constituting the contravention.

(8) Nothing in this section shall be read as excluding the operation of any rule of law applicable in the Abu Dhabi Global Market by virtue of which the arrangement or transaction may be called in question or any liability to the company may arise.

185. Property transactions: effect of subsequent affirmation

Where a transaction or arrangement is entered into by a company in contravention of section 179 (substantial property transactions) but, within a reasonable period, it is affirmed–

(a) in the case of a contravention of subsection (1) of that section, by resolution of the members of the company, and

(b) in the case of a contravention of subsection (2) of that section, by resolution of the members of the holding company,

the transaction or arrangement may no longer be avoided under section 184 (property transactions: consequences of contravention).

Loans, quasi-loans and credit transactions

186. Loans to directors: requirement of members' approval

(1) A company may not–

(a) make a loan to a director of the company or of its holding company, or

(b) give a guarantee or provide security in connection with a loan made by any person to such a director,

unless the transaction has been approved by a resolution of the members of the company or is conditional on such approval being obtained.

(2) If the director is a director of the company's holding company, the transaction must also have been approved by a resolution of the members of the holding company.

(3) A resolution approving a transaction to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (4) is made available to members–

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him,

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both–

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(4) The matters to be disclosed are–

(a) the nature of the transaction,

(b) the amount of the loan and the purpose for which it is required, and

(c) the extent of the company's liability under any transaction connected with the loan.

(5) No approval is required under this section on the part of the members of a body corporate that–

(a) is not a company registered in the Abu Dhabi Global Market,

(b) is a wholly-owned subsidiary of another body corporate, or

(c) is a restricted scope company.

187. Quasi-loans to directors: requirement of members' approval

(1) This section applies to a company if it is–

(a) a public company, or

(b) a company associated with a public company.

(2) A company to which this section applies may not–

(a) make a quasi-loan to a director of the company or of its holding company, or

(b) give a guarantee or provide security in connection with a quasi-loan made by any person to such a director,

unless the transaction has been approved by a resolution of the members of the company.

(3) If the director is a director of the company's holding company, the transaction must also have been approved by a resolution of the members of the holding company.

(4) A resolution approving a transaction to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (5) is made available to members–

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him,

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both–

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(5) The matters to be disclosed are–

(a) the nature of the transaction,

(b) the amount of the quasi-loan and the purpose for which it is required, and

(c) the extent of the company's liability under any transaction connected with the quasi-loan.

(6) No approval is required under this section on the part of the members of a body corporate that–

(a) is not a company registered in the Abu Dhabi Global Market, or

(b) is a wholly-owned subsidiary of another body corporate.

(c) is a restricted scope company

188. Meaning of "quasi-loan" and related expressions

(1) A "quasi-loan" is a transaction under which one party ("the creditor") agrees to pay, or pays otherwise than in pursuance of an agreement, a sum for another ("the borrower") or agrees to reimburse, or reimburses otherwise than in pursuance of an agreement, expenditure incurred by another party for another ("the borrower")–

(a) on terms that the borrower (or a person on his behalf) will reimburse the creditor, or

(b) in circumstances giving rise to a liability on the borrower to reimburse the creditor.

(2) Any reference to the person to whom a quasi-loan is made is a reference to the borrower.

(3) The liabilities of the borrower under a quasi-loan include the liabilities of any person who has agreed to reimburse the creditor on behalf of the borrower.

189. Loans or quasi-loans to persons connected with directors: requirement of members' approval

(1) This section applies to a company if it is–

(a) a public company, or

(b) a company associated with a public company.

(2) A company to which this section applies may not–

(a) make a loan or quasi-loan to a person connected with a director of the company or of its holding company, or

(b) give a guarantee or provide security in connection with a loan or quasi-loan made by any person to a person connected with such a director,

unless the transaction has been approved by a resolution of the members of the company.

(3) If the connected person is a person connected with a director of the company's holding company, the transaction must also have been approved by a resolution of the members of the holding company.

(4) A resolution approving a transaction to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (5) is made available to members–

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him,

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both–

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(5) The matters to be disclosed are–

(a) the nature of the transaction,

(b) the amount of the loan or quasi-loan and the purpose for which it is required, and

(c) the extent of the company's liability under any transaction connected with the loan or quasi-loan.

(6) No approval is required under this section on the part of the members of a body corporate that–

(a) is not a company registered in the Abu Dhabi Global Market, or

(b) is a wholly-owned subsidiary of another body corporate, or

(c) is a restricted scope company.

190. Credit transactions: requirement of members' approval

(1) This section applies to a company if it is–

(a) a public company, or

(b) a company associated with a public company.

(2) A company to which this section applies may not–

(a) enter into a credit transaction as creditor for the benefit of a director of the company or of its holding company, or a person connected with such a director, or

(b) give a guarantee or provide security in connection with a credit transaction entered into by any person for the benefit of such a director, or a person connected with such a director,

unless the transaction (that is, the credit transaction, the giving of the guarantee or the provision of security, as the case may be) has been approved by a resolution of the members of the company.

(3) If the director or connected person is a director of its holding company or a person connected with such a director, the transaction must also have been approved by a resolution of the members of the holding company.

(4) A resolution approving a transaction to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (5) is made available to members–

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him,

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both–

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(5) The matters to be disclosed are–

(a) the nature of the transaction,

(b) the value of the credit transaction and the purpose for which the land, goods or services sold or otherwise disposed of, leased, hired or supplied under the credit transaction are required, and

(c) the extent of the company's liability under any transaction connected with the credit transaction.

(6) No approval is required under this section on the part of the members of a body corporate that–

(a) is not a company registered in the Abu Dhabi Global Market,

(b) is a wholly-owned subsidiary of another body corporate, or

(c) is a restricted scope company.

191. Meaning of "credit transaction"

(1) A "credit transaction" is a transaction under which one party ("the creditor")–

(a) supplies any goods or sells any land under a hire-purchase agreement or a conditional sale agreement,

(b) leases or hires any land or goods in return for periodical payments, or

(c) otherwise disposes of land or supplies goods or services on the understanding that payment (whether in a lump sum or instalments or by way of periodical payments or otherwise) is to be deferred.

(2) Any reference to the person for whose benefit a credit transaction is entered into is to the person to whom goods, land or services are supplied, sold, leased, hired or otherwise disposed of under the transaction.

(3) In this section–

"conditional sale agreement" means an agreement for the sale of goods or land under which the purchase price or part of it is payable by instalments, and the property in the goods or land is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods or land) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled, and

"services" means anything other than goods or land.

192. Related arrangements: requirement of members' approval

(1) A company may not–

(a) take part in an arrangement under which–

(i) another person enters into a transaction that, if it had been entered into by the company, would have required approval under section 186 (loans to directors), 187 (quasi-loans to directors), 189 (loans or quasi-loans to persons connected with directors) or 190 (credit transactions), and

(ii) that person, in pursuance of the arrangement, obtains a benefit from the company or a body corporate associated with it, or

(b) arrange for the assignment to it, or assumption by it, of any rights, obligations or liabilities under a transaction that, if it had been entered into by the company, would have required such approval,

unless the arrangement in question has been approved by a resolution of the members of the company.

(2) If the director or connected person for whom the transaction is entered into is a director of its holding company or a person connected with such a director, the arrangement must also have been approved by a resolution of the members of the holding company.

(3) A resolution approving an arrangement to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (4) is made available to members–

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him,

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both–

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(4) The matters to be disclosed are–

(a) the matters that would have to be disclosed if the company were seeking approval of the transaction to which the arrangement relates,

(b) the nature of the arrangement, and

(c) the extent of the company's liability under the arrangement or any transaction connected with it.

(5) No approval is required under this section on the part of the members of a body corporate that–

(a) is not a company registered in the Abu Dhabi Global Market, or

(b) is a wholly-owned subsidiary of another body corporate, or

(c) is a restricted scope company.

(6) In determining for the purposes of this section whether a transaction is one that would have required approval under section 186 (loans to directors), 187 (quasi-loans to directors), 189 (loans or quasi-loans to persons connected with directors) or 190 (credit transactions) if it had been entered into by the company, the transaction shall be treated as having been entered into on the date of the arrangement.

193. Exception for expenditure on company business

(1) Approval is not required under section 186 (loans to directors), 187 (quasi-loans to directors), 189 (loans or quasi-loans to persons connected with directors) or 190 (credit transactions) for anything done by a company–

(a) to provide a director of the company or of its holding company, or a person connected with any such director, with funds to meet expenditure incurred or to be incurred by him–

(i) for the purposes of the company, or

(ii) for the purpose of enabling him properly to perform his duties as an officer of the company, or

(b) to enable any such person to avoid incurring such expenditure.

(2) This section does not authorise a company to enter into a transaction if the aggregate of–

(a) the value of the transaction in question, and

(b) the value of any other relevant transactions or arrangements,

exceeds 50,000 US dollars.

194. Exception for expenditure on defending proceedings etc.

(1) Approval is not required under section 186 (loans to directors), 187 (quasi-loans to directors), 189 (loans or quasi-loans to persons connected with directors) or 190 (credit transactions) for anything done by a company–

(a) to provide a director of the company or of its holding company with funds to meet expenditure incurred or to be incurred by him–

(i) in defending any criminal or civil proceedings, or

(ii) in connection with an application for relief (see subsection (5)), or

(b) to enable any such director to avoid incurring such expenditure,

if it is done on the following terms.

(2) The terms are–

(a) that the loan is to be repaid, or (as the case may be) any liability of the company incurred under any transaction connected with the thing done is to be discharged, in the event of–

(i) the director being convicted in the proceedings,

(ii) judgment being given against him in the proceedings, or

(iii) the Court refusing to grant him relief on the application, and

(b) that it is to be so repaid or discharged not later than–

(i) the date when the conviction becomes final,

(ii) the date when the judgment becomes final, or

(iii) the date when the refusal of relief becomes final.

(3) For this purpose a conviction, judgment or refusal of relief becomes final–

(a) if not appealed against, at the end of the period for bringing an appeal,

(b) if appealed against, when the appeal (or any further appeal) is disposed of.

(4) An appeal is disposed of–

(a) if it is determined and the period for bringing any further appeal has ended, or

(b) if it is abandoned or otherwise ceases to have effect.

(5) The reference in subsection (1)(a)(ii) to an application for relief is to an application for relief under section 601(3) or (4) (liability of others where nominee fails to make payment in respect of shares).

195. Exception for expenditure in connection with regulatory action or investigation

Approval is not required under section 186 (loans to directors), 187 (quasi-loans to directors), 189 (loans or quasi-loans to persons connected with directors) or 190 (credit transactions) for anything done by a company–

(a) to provide a director of the company or of its holding company with funds to meet expenditure incurred or to be incurred by him in defending himself–

(i) in an investigation by a regulatory authority, or

(ii) against action proposed to be taken by a regulatory authority,

in connection with any alleged negligence, default, breach of duty or breach of trust by him in relation to the company or an associated company, or

(b) to enable any such director to avoid incurring such expenditure.

196. Exceptions for minor and business transactions

(1) Approval is not required under section 186 (loans to directors), 187 (quasi-loans to directors) or 189 (loans or quasi-loans to persons connected with directors) for a company to make a loan or quasi-loan, or to give a guarantee or provide security in connection with a loan or quasi-loan, if the aggregate of–

(a) the value of the transaction, and

(b) the value of any other relevant transactions or arrangements,

does not exceed 10,000 US dollars.

(2) Approval is not required under section 190 (credit transactions) for a company to enter into a credit transaction, or to give a guarantee or provide security in connection with a credit transaction, if the aggregate of–

(a) the value of the transaction (that is, of the credit transaction, guarantee or security), and

(b) the value of any other relevant transactions or arrangements,

does not exceed 15,000 US dollars.

(3) Approval is not required under section 190 (credit transactions) for a company to enter into a credit transaction, or to give a guarantee or provide security in connection with a credit transaction, if–

(a) the transaction is entered into by the company in the ordinary course of the company's business, and

(b) the value of the transaction is not greater, and the terms on which it is entered into are not more favourable, than it is reasonable to expect the company would have offered to, or in respect of, a person of the same financial standing but unconnected with the company.

197. Exceptions for intra-group transactions

(1) Approval is not required under section 186 (loans to directors), 187 (quasi-loans to directors) or 189 (loans or quasi-loans to persons connected with directors) for–

(a) the making of a loan or quasi-loan to an associated body corporate, or

(b) the giving of a guarantee or provision of security in connection with a loan or quasi-loan made to an associated body corporate.

(2) Approval is not required under section 190 (credit transactions)–

(a) to enter into a credit transaction as creditor for the benefit of an associated body corporate, or

(b) to give a guarantee or provide security in connection with a credit transaction entered into by any person for the benefit of an associated body corporate.

198. Exceptions for money-lending companies

(1) Approval is not required under section 186 (loans to directors), 187 (quasi-loans to directors) or 189 (loans or quasi-loans to persons connected with directors) for the making of a loan or quasi-loan, or the giving of a guarantee or provision of security in connection with a loan or quasi-loan, by a money-lending company if–

(a) the transaction (that is, the loan, quasi-loan, guarantee or security) is entered into by the company in the ordinary course of the company's business, and

(b) the value of the transaction is not greater, and its terms are not more favourable, than it is reasonable to expect the company would have offered to a person of the same financial standing but unconnected with the company.

(2) A "money-lending company" means a company whose ordinary business includes the making of loans or quasi-loans, or the giving of guarantees or provision of security in connection with loans or quasi-loans.

(3) The condition specified in subsection (1)(b) does not of itself prevent a company from making a home loan–

(a) to a director of the company or of its holding company, or

(b) to an employee of the company,

if loans of that description are ordinarily made by the company to its employees and the terms of the loan in question are no more favourable than those on which such loans are ordinarily made.

(4) For the purposes of subsection (3) a "home loan" means a loan–

(a) for the purpose of facilitating the purchase, for use as the only or main residence of the person to whom the loan is made, of the whole or part of any dwelling-house together with any land to be occupied and enjoyed with it,

(b) for the purpose of improving a dwelling-house or part of a dwelling-house so used or any land occupied and enjoyed with it, or

(c) in substitution for any loan made by any person and falling within subsection (4)(a) or (b).

199. Other relevant transactions or arrangements

(1) This section has effect for determining what are "other relevant transactions or arrangements" for the purposes of any exception to section 186 (loans to directors), 187 (quasi-loans to directors), 189 (loans or quasi-loans to persons connected with directors) or 190 (credit transactions).

In the following provisions "the relevant exception" means the exception for the purposes of which that falls to be determined.

(2) Other relevant transactions or arrangements are those previously entered into, or entered into at the same time as the transaction or arrangement in question in relation to which the following conditions are met.

(3) Where the transaction or arrangement in question is entered into–

(a) for a director of the company entering into it, or

(b) for a person connected with such a director,

the conditions are that the transaction or arrangement was (or is) entered into for that director, or a person connected with him, by virtue of the relevant exception by that company or by any of its subsidiaries.

(4) Where the transaction or arrangement in question is entered into–

(a) for a director of the holding company of the company entering into it, or

(b) for a person connected with such a director,

the conditions are that the transaction or arrangement was (or is) entered into for that director, or a person connected with him, by virtue of the relevant exception by the holding company or by any of its subsidiaries.

(5) A transaction or arrangement entered into by a company that at the time it was entered into–

(a) was a subsidiary of the company entering into the transaction or arrangement in question, or

(b) was a subsidiary of that company's holding company,

is not a relevant transaction or arrangement if, at the time the question arises whether the transaction or arrangement in question falls within a relevant exception, it is no longer such a subsidiary.

200. The person for whom a transaction or arrangement is entered into

For the purposes of sections 186 (loans to directors) to 202 (loans etc.: effect of subsequent affirmation) the person for whom a transaction or arrangement is entered into is–

(a) in the case of a loan or quasi-loan, the person to whom it is made,

(b) in the case of a credit transaction, the person to whom goods, land or services are supplied, sold, hired, leased or otherwise disposed of under the transaction,

(c) in the case of a guarantee or security, the person for whom the transaction is made in connection with which the guarantee or security is entered into,

(d) in the case of an arrangement within section 192 (related arrangements), the person for whom the transaction is made to which the arrangement relates.

201. Loans etc.: consequences of contravention

(1) This section applies where a company enters into a transaction or arrangement in contravention of section 186 (loans to directors), 187 (quasi-loans to directors), 189 (loans or quasi-loans to persons connected with directors), 190 (credit transactions) or 192 (related arrangements).

(2) The transaction or arrangement is voidable at the instance of the company, unless–

(a) restitution of any money or other asset that was the subject matter of the transaction or arrangement is no longer possible,

(b) the company has been indemnified for any loss or damage resulting from the transaction or arrangement, or

(c) rights acquired in good faith, for value and without actual notice of the contravention by a person who is not a party to the transaction or arrangement would be affected by the avoidance.

(3) Whether or not the transaction or arrangement has been avoided, each of the persons specified in subsection (4) is liable–

(a) to account to the company for any gain that he has made directly or indirectly by the transaction or arrangement, and

(b) (jointly and severally with any other person so liable under this section) to indemnify the company for any loss or damage resulting from the transaction or arrangement.

(4) The persons so liable are–

(a) any director of the company or of its holding company with whom the company entered into the transaction or arrangement in contravention of section 186 (loans to directors), 187 (quasi-loans to directors), 190 (credit transactions) or 192 (related arrangements),

(b) any person with whom the company entered into the transaction or arrangement in contravention of any of those sections who is connected with a director of the company or of its holding company,

(c) the director of the company or of its holding company with whom any such person is connected, and

(d) any other director of the company who authorised the transaction or arrangement.

(5) Subsections (3) and (4) are subject to the following two subsections.

(6) In the case of a transaction or arrangement entered into by a company in contravention of section 189 (loans or quasi-loans to persons connected with directors), 190 (credit transactions) or 192 (related arrangements) with a person connected with a director of the company or of its holding company, that director is not liable by virtue of subsection (4)(c) if he shows that he took all reasonable steps to secure the company's compliance with the section concerned.

(7) In any case–

(a) a person so connected is not liable by virtue of subsection (4)(b), and

(b) a director is not liable by virtue of subsection (4)(d),

if he shows that, at the time the transaction or arrangement was entered into, he did not know the relevant circumstances constituting the contravention.

(8) Nothing in this section shall be read as excluding the operation of any rule of law applicable in the Abu Dhabi Global Market by virtue of which the transaction or arrangement may be called in question or any liability to the company may arise.

202. Loans etc.: effect of subsequent affirmation

Where a transaction or arrangement is entered into by a company in contravention of section 186 (loans to directors), 187 (quasi-loans to directors), 189 (loans or quasi-loans to persons connected with directors), 190 (credit transactions) or 192 (related arrangements) but, within a reasonable period, it is affirmed–

(a) in the case of a contravention of the requirement for a resolution of the members of the company, by a resolution of the members of the company, and

(b) in the case of a contravention of the requirement for a resolution of the members of the company's holding company, by a resolution of the members of the holding company,

the transaction or arrangement may no longer be avoided under section 201 (loans etc.: consequences of contravention).

Payments for loss of office

203. Payments for loss of office

(1) In this Chapter a "payment for loss of office" means a payment made to a director or past director of a company–

(a) by way of compensation for loss of office as director of the company,

(b) by way of compensation for loss, while director of the company or in connection with his ceasing to be a director of it, of–

(i) any other office or employment in connection with the management of the affairs of the company, or

(ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company,

(c) as consideration for or in connection with his retirement from his office as director of the company, or

(d) as consideration for or in connection with his retirement, while director of the company or in connection with his ceasing to be a director of it, from–

(i) any other office or employment in connection with the management of the affairs of the company, or

(ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company.

(2) The references to compensation and consideration include benefits otherwise than in cash and references in this Chapter to payment have a corresponding meaning.

(3) For the purposes of sections 205 (payment by company) to 209 (exception for small payments)–

(a) payment to a person connected with a director, or

(b) payment to any person at the direction of, or for the benefit of, a director or a person connected with him,

is treated as payment to the director.

(4) References in those sections to payment by a person include payment by another person at the direction of, or on behalf of, the person referred to.

204. Amounts taken to be payments for loss of office

(1) This section applies where in connection with any such transfer as is mentioned in section 206 (payment in connection with transfer of undertaking etc.) or 207 (payment in connection with share transfer) a director of the company–

(a) is to cease to hold office, or

(b) is to cease to be the holder of–

(i) any other office or employment in connection with the management of the affairs of the company, or

(ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company.

(2) If in connection with any such transfer–

(a) the price to be paid to the director for any shares in the company held by him is in excess of the price which could at the time have been obtained by other holders of like shares, or

(b) any valuable consideration is given to the director by a person other than the company,

the excess or, as the case may be, the money value of the consideration is taken for the purposes of those sections to have been a payment for loss of office.

205. Payment by company: requirement of members' approval

(1) A company may not make a payment for loss of office to a director of the company unless the payment has been approved by a resolution of the members of the company.

(2) A company may not make a payment for loss of office to a director of its holding company unless the payment has been approved by a resolution of the members of each of those companies.

(3) A resolution approving a payment to which this section applies must not be passed unless a memorandum setting out particulars of the proposed payment (including its amount) is made available to the members of the company whose approval is sought–

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him,

(b) in the case of a resolution at a meeting, by being made available for inspection by the members both–

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(4) No approval is required under this section on the part of the members of a body corporate that–

(a) is not a company registered in the Abu Dhabi Global Market,

(b) is a wholly-owned subsidiary of another body corporate, or

(c) is a restricted scope company.

206. Payment in connection with transfer of undertaking etc.: requirement of members' approval

(1) No payment for loss of office may be made by any person to a director of a company in connection with the transfer of the whole or any part of the undertaking or property of the company unless the payment has been approved by a resolution of the members of the company.

(2) No payment for loss of office may be made by any person to a director of a company in connection with the transfer of the whole or any part of the undertaking or property of a subsidiary of the company unless the payment has been approved by a resolution of the members of each of the companies.

(3) A resolution approving a payment to which this section applies must not be passed unless a memorandum setting out particulars of the proposed payment (including its amount) is made available to the members of the company whose approval is sought–

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him,

(b) in the case of a resolution at a meeting, by being made available for inspection by the members both–

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(4) No approval is required under this section on the part of the members of a body corporate that–

(a) is not a company registered in the Abu Dhabi Global Market,

(b) is a wholly-owned subsidiary of another body corporate, or

(c) is a restricted scope company.

(5) A payment made in pursuance of an arrangement–

(a) entered into as part of the agreement for the transfer in question, or within one year before or two years after that agreement, and

(b) to which the company whose undertaking or property is transferred, or any person to whom the transfer is made, is privy,

is presumed, except in so far as the contrary is shown, to be a payment to which this section applies.

207. Payment in connection with share transfer: requirement of members' approval

(1) No payment for loss of office may be made by any person to a director of a company in connection with a transfer of shares in the company, or in a subsidiary of the company, resulting from a takeover bid unless the payment has been approved by a resolution of the relevant shareholders.

(2) The relevant shareholders are the holders of the shares to which the bid relates and any holders of shares of the same class as any of those shares.

(3) A resolution approving a payment to which this section applies must not be passed unless a memorandum setting out particulars of the proposed payment (including its amount) is made available to the members of the company whose approval is sought–

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him,

(b) in the case of a resolution at a meeting, by being made available for inspection by the members both–

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(4) Neither the person making the offer, nor any associated company of his, is entitled to vote on the resolution, but–

(a) where the resolution is proposed as a written resolution, they are entitled (if they would otherwise be so entitled) to be sent a copy of it, and

(b) at any meeting to consider the resolution they are entitled (if they would otherwise be so entitled) to be given notice of the meeting, to attend and speak and if present (in person or by proxy) to count towards the quorum.

(5) If at a meeting to consider the resolution a quorum is not present, and after the meeting has been adjourned to a later date a quorum is again not present, the payment is (for the purposes of this section) deemed to have been approved.

(6) No approval is required under this section on the part of shareholders in a body corporate that–

(a) is not a company registered in the Abu Dhabi Global Market, or

(b) is a wholly-owned subsidiary of another body corporate, or

(c) is a restricted scope company.

(7) A payment made in pursuance of an arrangement–

(a) entered into as part of the agreement for the transfer in question, or within one year before or two years after that agreement, and

(b) to which the company whose shares are the subject of the bid, or any person to whom the transfer is made, is privy,

is presumed, except in so far as the contrary is shown, to be a payment to which this section applies.

208. Exception for payments in discharge of legal obligations etc.

(1) Approval is not required under section 205 (payment by company), 206 (payment in connection with transfer of undertaking etc.) or 207 (payment in connection with share transfer) for a payment made in good faith–

(a) in discharge of an existing legal obligation (as defined below),

(b) by way of damages for breach of such an obligation,

(c) by way of settlement or compromise of any claim arising in connection with the termination of a person's office or employment, or

(d) by way of pension in respect of past services.

(2) In relation to a payment within section 205 (payment by company) an existing legal obligation means an obligation of the company, or any body corporate associated with it, that was not entered into in connection with, or in consequence of, the event giving rise to the payment for loss of office.

(3) In relation to a payment within section 206 (payment in connection with transfer of undertaking etc.) or 207 (payment in connection with share transfer) an existing legal obligation means an obligation of the person making the payment that was not entered into for the purposes of, in connection with or in consequence of, the transfer in question.

(4) In the case of a payment within both section 205 (payment by company) and section 206 (payment in connection with transfer of undertaking etc.), or within both section 205 (payment by company) and section 207 (payment in connection with share transfer), subsection (2) above applies and not subsection (3).

(5) A payment part of which falls within subsection (1) above and part of which does not is treated as if the parts were separate payments.

209. Exception for small payments

(1) Approval is not required under section 205 (payment by company), 206 (payment in connection with transfer of undertaking etc.) or 207 (payment in connection with share transfer) if–

(a) the payment in question is made by the company or any of its subsidiaries, and

(b) the amount or value of the payment, together with the amount or value of any other relevant payments, does not exceed 300 US dollars.

(2) For this purpose "other relevant payments" are payments for loss of office in relation to which the following conditions are met.

(3) Where the payment in question is one to which section 205 (payment by company) applies, the conditions are that the other payment was or is paid–

(a) by the company making the payment in question or any of its subsidiaries,

(b) to the director to whom that payment is made, and

(c) in connection with the same event.

(4) Where the payment in question is one to which section 206 (payment in connection with transfer of undertaking etc.) or 207 (payment in connection with share transfer), the conditions are that the other payment was (or is) paid in connection with the same transfer–

(a) to the director to whom the payment in question was made, and

(b) by the company making the payment or any of its subsidiaries.

210. Payments made without approval: consequences

(1) If a payment is made in contravention of section 207 (payment by company)–

(a) it is held by the recipient on trust for the company making the payment, and

(b) any director who authorised the payment is jointly and severally liable to indemnify the company that made the payment for any loss resulting from it.

(2) If a payment is made in contravention of section 206 (payment in connection with transfer of undertaking etc.), it is held by the recipient on trust for the company whose undertaking or property is or is proposed to be transferred.

(3) If a payment is made in contravention of section 207 (payment in connection with share transfer)–

(a) it is held by the recipient on trust for persons who have sold their shares as a result of the offer made, and

(b) the expenses incurred by the recipient in distributing that sum amongst those persons shall be borne by him and not retained out of that sum.

(4) If a payment is made in contravention of section 205 (payment by company) and section 206 (payment in connection with transfer of undertaking etc.), subsection (2) of this section applies rather than subsection (1).

(5) If a payment is made in contravention of section 205 (payment by company) and section 207 (payment in connection with share transfer), subsection (3) of this section applies rather than subsection (1), unless the Court directs otherwise.

Supplementary

211. Transactions requiring members' approval: application of provisions to shadow directors

(1) For the purposes of–

(a) sections 177 and 178 (directors' long-term service contracts),

(b) sections 179 to 185 (property transactions),

(c) sections 186 to 202 (loans etc.), and

(d) sections 203 to 210 (payments for loss of office),

a shadow director is treated as a director.

(2) Any reference in those provisions to loss of office as a director does not apply in relation to loss of a person's status as a shadow director.

212. Approval by written resolution: accidental failure to send memorandum

(1) Where–

(a) approval under this Chapter is sought by written resolution, and

(b) a memorandum is required under this Chapter to be sent or submitted to every eligible member before the resolution is passed,

any accidental failure to send or submit the memorandum to one or more members shall be disregarded for the purpose of determining whether the requirement has been met.

Subsection (1) has effect subject to any provision of the company's articles.

213. Cases where approval is required under more than one provision

(1) Approval may be required under more than one provision of this Chapter.

(2) If so, the requirements of each applicable provision must be met.

(3) This does not require a separate resolution for the purposes of each provision.

CHAPTER 5

DIRECTORS' SERVICE CONTRACTS

214. Directors' service contracts

(1) For the purposes of this Part a director's "service contract", in relation to a company, means a contract under which–

(a) a director of the company undertakes personally to perform services (as director or otherwise) for the company, or for a subsidiary of the company, or

(b) services (as director or otherwise) that a director of the company undertakes personally to perform are made available by a third party to the company, or to a subsidiary of the company.

(2) The provisions of this Part relating to directors' service contracts apply to the terms of a person's appointment as a director of a company.

They are not restricted to contracts for the performance of services outside the scope of the ordinary duties of a director.

(3) The provisions of Chapter 5 shall not apply to a restricted scope company.

215. Copy of contract or memorandum of terms to be available for inspection

(1) A company must keep available for inspection–

(a) a copy of every director's service contract with the company or with a subsidiary of the company, or

(b) if the contract is not in writing, a written memorandum setting out the terms of the contract.

(2) All the copies and memoranda must be kept available for inspection at–

(a) the company's registered office, or

(b) a place specified in rules made by the Board under section 996 (rules about where certain company records to be kept available for inspection).

(3) The copies and memoranda must be retained by the company for at least one year from the date of termination or expiry of the contract and must be kept available for inspection during that time.

(4) The company must give notice to the Registrar–

(a) of the place at which the copies and memoranda are kept available for inspection, and

(b) of any change in that place,

unless they have at all times been kept at the company's registered office.

(5) If default is made in complying with subsection (1), (2) or (3), or default is made for 14 days in complying with subsection (4), a contravention of these Regulations is committed by every officer of the company who is in default.

(6) A person who commits the contravention referred to in subsection (5) shall be liable to a level 1 fine.

(7) The provisions of this section apply to a variation of a director's service contract as they apply to the original contract.

216. Right of member to inspect and request copy

(1) Every copy or memorandum required to be kept under section 215 (copy of contract or memorandum of terms to be available for inspection) must be open to inspection by any member of the company without charge.

(2) Any member of the company is entitled, on request and on payment of such fee as may be prescribed, to be provided with a copy of any such copy or memorandum.

The copy must be provided within seven days after the request is received by the company.

(3) If an inspection required under subsection (1) is refused, or default is made in complying with subsection (2), a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 2 fine.

In the case of any such refusal or default the Court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requiring it.

217. Directors' service contracts: application of provisions to shadow directors

A shadow director is treated as a director for the purposes of the provisions of this Chapter.

Chapter 6

CONTRACTS WITH SOLE MEMBERS WHO ARE DIRECTORS

218. Contract with sole member who is also a director

(1) This section applies where–

(a) a non-restricted scope company or a public company having only one member enters into a contract with the sole member,

(b) the sole member is also a director of the company, and

(c) the contract is not entered into in the ordinary course of the company's business.

(2) The company must, unless the contract is in writing, ensure that the terms of the contract are either–

(a) set out in a written memorandum, or

(b) recorded in the minutes of the first meeting of the directors of the company following the making of the contract.

(3) If a company fails to comply with this section a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 1 fine.

(5) For the purposes of this section a shadow director is treated as a director.

(6) Failure to comply with this section in relation to a contract does not affect the validity of the contract.

(7) Nothing in this section shall be read as excluding the operation of any rule of law applicable in the Abu Dhabi Global Market applying to contracts between a company and a director of the company.

Chapter 7

DIRECTORS' LIABILITIES

Provision protecting directors from liability

219. Provisions protecting directors from liability

(1) Any provision that purports to exempt a director of a company (to any extent) from any liability that would otherwise attach to him in connection with any negligence, default, breach of duty or breach of trust in relation to the company is void.

(2) Any provision by which a company directly or indirectly provides an indemnity (to any extent) for a director of the company, or of an associated company, against any liability attaching to him in connection with any negligence, default, breach of duty or breach of trust in relation to the company of which he is a director is void, except as permitted by–

(a) section 220 (provision of insurance),

(b) section 221 (qualifying third party indemnity provision), or

(c) section 222 (qualifying pension scheme indemnity provision).

(3) This section applies to any provision, whether contained in a company's articles or in any contract with the company or otherwise.

220. Provision of insurance

Section 219(2) (voidness of provisions for indemnifying directors) does not prevent a company from purchasing and maintaining for a director of the company, or of an associated company, insurance against any such liability as is mentioned in that subsection.

221. Qualifying third party indemnity provision

(1) Section 219(2) (voidness of provisions for indemnifying directors) does not apply to qualifying third party indemnity provision.

(2) Third party indemnity provision means provision for indemnity against liability incurred by the director to a person other than the company or an associated company.

Such provision is qualifying third party indemnity provision if the following requirements are met.

(3) The provision must not provide any indemnity against–

(a) any liability of the director to pay–

(i) a fine imposed in criminal proceedings, or

(ii) a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (however arising), or

(b) any liability incurred by the director–

(i) in defending criminal proceedings in which he is convicted, or

(ii) in defending civil proceedings brought by the company, or an associated company, in which judgment is given against him, or

(iii) in connection with an application for relief (see subsection (6)) in which the Court refuses to grant him relief.

(4) The references in subsection (3)(b) to a conviction, judgment or refusal of relief are to the final decision in the proceedings.

(5) For this purpose–

(a) a conviction, judgment or refusal of relief becomes final–

(i) if not appealed against, at the end of the period for bringing an appeal, or

(ii) if appealed against, at the time when the appeal (or any further appeal) is disposed of, and

(b) an appeal is disposed of–

(i) if it is determined and the period for bringing any further appeal has ended, or

(ii) if it is abandoned or otherwise ceases to have effect.

(6) The reference in subsection (3)(b)(iii) to an application for relief is to an application for relief under section 601(3) or (4) (liability of others where nominee fails to make payment in respect of shares).

222. Qualifying pension scheme indemnity provision

(1) Section 219(2) (voidness of provisions for indemnifying directors) does not apply to qualifying pension scheme indemnity provision.

(2) Pension scheme indemnity provision means provision indemnifying a director of a company that is a trustee of an occupational pension scheme against liability incurred in connection with the company's activities as trustee of the scheme.

Such provision is qualifying pension scheme indemnity provision if the following requirements are met.

(3) The provision must not provide any indemnity against–

(a) any liability of the director to pay–

(i) a fine imposed in criminal proceedings, or

(ii) a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (however arising), or

(b) any liability incurred by the director in defending criminal proceedings in which he is convicted.

(4) The reference in subsection (3)(b) to a conviction is to the final decision in the proceedings.

(5) For this purpose–

(a) a conviction becomes final–

(i) if not appealed against, at the end of the period for bringing an appeal, or

(ii) if appealed against, at the time when the appeal (or any further appeal) is disposed of, and

(b) an appeal is disposed of–

(i) if it is determined and the period for bringing any further appeal has ended, or

(ii) if it is abandoned or otherwise ceases to have effect.

(6) In this section "occupational pension scheme" means a pension scheme established under a trust by an employer or employers and having or capable of having effect so as to provide benefits to or in respect of any or all of the employees of−

(a) that employer or those employers, or

(b) any other employer, (whether or not it also has or is capable of having effect so as to provide benefits to or in respect of other persons).

(7) "Pension scheme" means a scheme or other arrangements, comprised in one or more instruments or agreements, having or capable of having effect so as to provide benefits to or in respect of persons−

(a) on retirement,

(b) on death,

(c) on having reached a particular age,

(d) on the onset of serious ill-health or incapacity, or

(e) in similar circumstances.

223. Copy of qualifying indemnity provision to be available for inspection

(1) This section has effect where qualifying indemnity provision is made for a director of a company, and applies–

(a) to the company of which he is a director (whether the provision is made by that company or an associated company), and

(b) where the provision is made by an associated company, to that company.

(2) That company or, as the case may be, each of them must keep available for inspection–

(a) a copy of the qualifying indemnity provision, or

(b) if the provision is not in writing, a written memorandum setting out its terms.

(3) The copy or memorandum must be kept available for inspection at–

(a) the company's registered office, or

(b) a place specified in rules made by the Board under section 996 (rules about where certain company records to be kept available for inspection).

(4) The copy or memorandum must be retained by the company for at least one year from the date of termination or expiry of the provision and must be kept available for inspection during that time.

(5) The company must give notice to the Registrar–

(a) of the place at which the copy or memorandum is kept available for inspection, and

(b) of any change in that place,

unless it has at all times been kept at the company's registered office.

(6) If default is made in complying with subsection (2) or (3), a contravention of these Regulations is committed by every officer of the company who is in default.

(7) A person who commits the contravention referred to in subsection (6) shall be liable to a level 2 fine.

(8) If default is made for 14 days in complying with subsection (5), a contravention of these Regulations is committed by every officer of the company who is in default.

(9) A person who commits the contravention referred to in subsection (8) shall be liable to a level 1 fine.

(10) The provisions of this section apply to a variation of a qualifying indemnity provision as they apply to the original provision.

(11) In this section "qualifying indemnity provision" means–

(a) qualifying third party indemnity provision, and

(b) qualifying pension scheme indemnity provision.

224. Right of member to inspect and request copy

(1) Every copy or memorandum required to be kept by a company under section 223 (copy of qualifying indemnity provision to be available for inspection) must be open to inspection by any member of the company without charge.

(2) Any member of the company is entitled, on request and on payment of such fee as may be prescribed, to be provided with a copy of any such copy or memorandum.

The copy must be provided within seven days after the request is received by the company.

(3) If an inspection required under subsection (1) is refused, or default is made in complying with subsection (2), a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 2 fine.

(5) In the case of any such refusal or default the Court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requiring it.

Ratification of acts giving rise to liability

225. Ratification of acts of directors

(1) This section applies to the ratification by a company of conduct by a director amounting to negligence, default, breach of duty or breach of trust in relation to the company.

(2) The decision of the company to ratify such conduct must be made by resolution of the members of the company.

(3) Where the resolution is proposed as a written resolution neither the director (if a member of the company) nor any member connected with him is an eligible member.

(4) Where the resolution is proposed at a meeting, it is passed only if the necessary majority is obtained disregarding votes in favour of the resolution by the director (if a member of the company) and any member connected with him.

This does not prevent the director or any such member from attending, being counted towards the quorum and taking part in the proceedings at any meeting at which the decision is considered.

(5) For the purposes of this section–

(a) "conduct" includes acts and omissions,

(b) "director" includes a former director,

(c) a shadow director is treated as a director, and

(d) in section 274 (meaning of "connected person"), subsection (3) does not apply (exclusion of person who is himself a director).

(6) Nothing in this section affects–

(a) the validity of a decision taken by unanimous consent of the members of the company, or

(b) any power of the directors to agree not to sue, or to settle or release a claim made by them on behalf of the company.

(7) This section does not affect any rule of law applicable in the Abu Dhabi Global Market imposing additional requirements for valid ratification or any rule of law as to acts that are incapable of being ratified by the company.

Chapter 8

DIRECTORS' RESIDENTIAL ADDRESSES: PROTECTION FROM DISCLOSURE

226. Protected information

(1) This Chapter makes provision for protecting, in the case of a company director who is an individual–

(a) information as to his usual residential address, and

(b) the information that his service address is his usual residential address.

(2) That information is referred to in this Chapter as "protected information".

(3) Information does not cease to be protected information on the individual ceasing to be a director of the company.

References in this Chapter to a director include, to that extent, a former director.

227. Protected information: restriction on use or disclosure by company

(1) A company must not use or disclose protected information about any of its directors, except–

(a) for communicating with the director concerned,

(b) in order to comply with any requirement of these Regulations as to particulars to be sent to the Registrar,

(c) in order to comply with any request for disclosure from the Registrar, or

(d) in accordance with section 230 (disclosure under Court order).

(2) Subsection (1) does not prohibit any use or disclosure of protected information with the consent of the director concerned.

228. Protected information: restriction on use or disclosure by Registrar

(1) The Registrar must omit protected information from the material on the register that is available for inspection where–

(a) it is contained in a document delivered to him in which such information is required to be stated, and

(b) in the case of a document having more than one part, it is contained in a part of the document in which such information is required to be stated.

(2) The Registrar is not obliged–

(a) to check other documents or (as the case may be) other parts of the document to ensure the absence of protected information, or

(b) to omit from the material that is available for public inspection anything registered before this Chapter comes into force.

(3) The Registrar must not use or disclose protected information except–

(a) as permitted by section 229 (permitted use or disclosure by Registrar), or

(b) in accordance with section 230 (disclosure under Court order).

229. Permitted use or disclosure by the Registrar

(1) The Registrar may use protected information for communicating with the director in question.

(2) The Registrar may disclose information–

(a) to a public authority specified for the purposes of this section by rules made by the Board, or

(b) to a credit reference agency.

(3) The Registrar may make rules–

(a) specifying conditions for the disclosure of protected information in accordance with this section, and

(b) providing for the charging of fees.

(4) The Board may make rules requiring the Registrar, on application, to refrain from disclosing protected information relating to a director to a credit reference agency.

(5) Rules under subsection (4) may make provision as to–

(a) who may make an application,

(b) the grounds on which an application may be made,

(c) the information to be included in and documents to accompany an application, and

(d) how an application is to be determined.

(6) Provision under subsection (5)(d) may in particular–

(a) confer a discretion on the Registrar,

(b) provide for a question to be referred to a person other than the Registrar for the purposes of determining the application.

(7) In this section–

"credit reference agency" means a person carrying on a business comprising the furnishing of information relevant to the financial standing of individuals, being information collected by the agency for that purpose, and

"public authority" includes any person or body having functions of a public nature.

230. Disclosure under Court order

(1) The Court may make an order for the disclosure of protected information by the company or by the Registrar if–

(a) there is evidence that service of documents at a service address other than the director's usual residential address is not effective to bring them to the notice of the director, or

(b) it is necessary or expedient for the information to be provided in connection with the enforcement of an order or decree of the Court,

and the Court is otherwise satisfied that it is appropriate to make the order.

(2) An order for disclosure by the Registrar is to be made only if the company–

(a) does not have the director's usual residential address, or

(b) has been dissolved.

(3) The order may be made on the application of a liquidator, creditor or member of the company, or any other person appearing to the Court to have a sufficient interest.

(4) The order must specify the persons to whom, and purposes for which, disclosure is authorised.

231. Circumstances in which Registrar may put address on the public record

(1) With regard to public companies and non-restricted scope companies only, the Registrar may put a director's usual residential address on the public record if–

(a) communications sent by the Registrar to the director and requiring a response within a specified period remain unanswered,

(b) there is evidence that service of documents at a service address provided in place of the director's usual residential address is not effective to bring them to the notice of the director, or

(c) there is evidence that service of documents on a restricted scope company at its registered office is not effective to bring them to the notice of the director.

(2) The Registrar must give notice of the proposal–

(a) to the director, and

(b) to every company of which the Registrar has been notified that the individual is a director.

(3) The notice must–

(a) state the grounds on which it is proposed to put the director's usual residential address on the public record, and

(b) specify a period within which representations may be made before that is done.

(4) It must be sent to the director at his usual residential address, unless it appears to the Registrar that service at that address may be ineffective to bring it to the individual's notice, in which case it may be sent to any service address provided in place of that address.

(5) The Registrar must take account of any representations received within the specified period.

(6) What is meant by putting the address on the public record is explained in section 232 (putting the address on the public record).

232. Putting the address on the public record

(1) The Registrar, on deciding in accordance with section 231 (circumstances in which Registrar may put address on the public record) that a director's usual residential

address is to be put on the public record, shall proceed as if notice of a change of registered particulars had been given−

(a) stating that address as the director's service address, and

(b) stating that the director's usual residential address is the same as his service address.

(2) The Registrar must give notice of having done so−

(a) to the director, and

(b) to the company.

(3) On receipt of the notice the company must−

(a) enter the director's usual residential address in its register of directors as his service address, and

(b) state in its register of directors' residential addresses that his usual residential address is the same as his service address.

(4) If the company has been notified by the director in question of a more recent address as his usual residential address, it must−

(a) enter that address in its register of directors as the director's service address, and

(b) give notice to the Registrar as on a change of registered particulars.

(5) If a company fails to comply with subsection (3) or (4), a contravention of these Regulations is committed by−

(a) the company, and

(b) every officer of the company who is in default.

(6) A person who commits the contravention referred to in subsection (5) shall be liable to a level 2 fine.

(7) A director whose usual residential address has been put on the public record by the Registrar under this section may not register a service address other than his usual residential address for a period of five years from the date of the Registrar's decision.

CHAPTER 9

DISQUALIFICATION OF DIRECTORS

233. Disqualification orders: general

(1) In the circumstances specified below the Registrar may, and under section shall 238 (duty of Registrar to disqualify unfit directors of insolvent companies), make against a person a disqualification order that, for a period specified in the order −

(a) he shall not be a director of a company, act as receiver of a company's property or in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company unless (in each case) he has permission to do so from the Registrar, and

(b) he shall not act as an insolvency practitioner.

(2) In each section of these Regulations which gives the Registrar the power or, as the case may be, imposes on him the duty to make a disqualification order, there is specified the maximum (and, in section 238 (duty of Registrar to disqualify unfit directors of insolvent companies), the minimum) period of disqualification which may or (as the case may be) must be imposed by means of the order.

(3) Unless the Registrar otherwise specifies, the period of disqualification so imposed shall begin at the end of the period of 21 days beginning with the date of the order.

(4) Where a disqualification order is made against a person who is already subject to such an order or to a disqualification undertaking, the periods specified in those orders or, as the case may be, in the order and the undertaking shall run concurrently.

(5) A disqualification order may be made on grounds which are or include matters other than criminal convictions, notwithstanding that the person in respect of whom it is to be made may be criminally liable in respect of those matters.

(6) The Registrar may make an order (a "delegation order") for the purpose of enabling functions of the Registrar under this chapter to be exercised by the Financial Services Regulator.

(7) A delegation order has the effect of transferring to the Financial Services Regulator designated by it all functions of the Registrar under this chapter subject to such exceptions and reservations as may be specified in the order.

(8) A delegation order may confer on the Financial Services Regulator such other functions supplementary or incidental to those transferred as appear to the Registrar to be appropriate.

(9) A delegation order may be amended or, if it appears to the Registrar that it is no longer in the public interest that the order should remain in force, revoked by a further order under this section.

(10) Where functions are transferred or resumed, the Registrar may by order confer or, as the case may be, take away such other functions supplementary or incidental to those transferred or resumed as appear to him to be appropriate.

234. Disqualification undertakings: general

(1) In the circumstances specified in sections 239 (disqualification order or undertaking; and reporting provisions) and 240 (disqualification of persons unfit to be directors) the Registrar may accept a disqualification undertaking, that is to say an undertaking by any person that, for a period specified in the undertaking, the person−

(a) will not be a director of a company, act as receiver of a company's property or in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company unless (in each case) he has permission to do so from the Registrar, and

(b) will not act as an insolvency practitioner.

(2) The maximum period which may be specified in a disqualification undertaking is 15 years, and the minimum period which may be specified in a disqualification undertaking under section 239 (disqualification order or undertaking; and reporting provisions) is two years.

(3) Where a disqualification undertaking by a person who is already subject to such an undertaking or to a disqualification order is accepted, the periods specified in those undertakings or (as the case may be) the undertaking and the order shall run concurrently.

(4) In determining whether to accept a disqualification undertaking by any person, the Registrar may take account of matters other than criminal convictions, notwithstanding that the person may be criminally liable in respect of those matters.

235. Disqualification on conviction of criminal offence

(1) The Registrar may make a disqualification order against a person where he is convicted of a criminal offence in the United Arab Emirates in connection with the promotion, formation, management, liquidation or striking off of a company with the receivership of a company's property or with his being an administrative receiver of a company.

(2) The maximum period of disqualification under this section is 15 years.

236. Disqualification for persistent breaches of companies legislation

(1) The Registrar may make a disqualification order against a person if it is satisfied that he has been persistently in default in relation to provisions of any law or regulation in the Abu Dhabi Global Market requiring any return, account or other document to be filed with, delivered or sent, or notice of any matter to be given, to the Registrar.

(2) The maximum period of disqualification under this section is 15 years.

237. Disqualification for fraud, etc.

(1) The Registrar may make a disqualification order against a person if it is satisfied that he−

(a) has been guilty of breach of section 857 (fraudulent trading), or

(b) has otherwise committed, while an officer or liquidator of the company receiver of the company's property or administrative receiver of the company, any fraud in relation to the company or any breach of his duty as such officer, liquidator, receiver or administrative receiver.

(2) The maximum period of disqualification under this section is 15 years.

238. Duty of Registrar to disqualify unfit directors of insolvent companies

(1) The Registrar shall make a disqualification order against a person in any case where it is satisfied−

(a) that he is or has been a director of a company which has at any time become insolvent (whether while he was a director or subsequently), and

(b) that his conduct as a director of that company (either taken alone or taken together with his conduct as a director of any other company or companies) makes him unfit to be concerned in the management of a company.

(2) For the purposes of this section and section 239 (disqualification order or undertaking; and reporting provisions), a company becomes insolvent if−

(a) the company goes into liquidation at a time when its assets are insufficient for the payment of its debts and other liabilities and the expenses of the winding up,

(b) the company enters administration,

(c) an administrative receiver of the company is appointed,

and references to a person's conduct as a director of any company or companies include, where that company or any of those companies has become insolvent, that person's conduct in relation to any matter connected with or arising out of the insolvency of that company.

(3) In this section and section 239 (disqualification order or undertaking; and reporting provisions), "director" includes a shadow director.

(4) Under this section the minimum period of disqualification is 2 years, and the maximum period is 15 years.

239. Disqualification order or undertaking; and reporting provisions

(1) A disqualification order under section 243 (participation in wrongful trading) shall not be made after the end of the period of 2 years beginning with the day on which the company of which that person is or has been a director became insolvent.

(2) If it appears to the Registrar that the conditions mentioned in section 234(1) (disqualification undertakings: general) are satisfied as respects any person who has offered to give a disqualification undertaking, it may accept the undertaking if it appears to the Registrar that it is expedient in the public interest that it should do so (instead of making a disqualification order).

(3) If it appears to the office-holder responsible under this section, that is to say−

(a) in the case of a company which is being wound up, the liquidator or provisional liquidator,

(b) in the case of a company which is in administration, the administrator, or

(c) in the case of a company of which there is an administrative receiver, that receiver,

that the conditions mentioned in section 238(1) (duty of Registrar to disqualify unfit directors of insolvent companies) are satisfied as respects a person who is or has been a director of that company, the office-holder shall forthwith report the matter to the Registrar.

(4) The Registrar may require the liquidator, provisional liquidator, administrator or administrative receiver of a company, or the former liquidator, provisional liquidator, administrator or administrative receiver of a company−

(a) to furnish him with such information with respect to any person's conduct as a director of the company, and

(b) to produce and permit inspection of such books, papers and other records relevant to that person's conduct as such a director,

as the Registrar may reasonably require for the purpose of determining whether to exercise, or of exercising, any of its functions under this section.

240. Disqualification of persons unfit to be directors

(1) The Registrar may make a disqualification order against a person who is, or has been, a director or shadow director of a company, where it is satisfied that his conduct in relation to the company makes him unfit to be concerned in the management of a company and it is in the public interest to make the order.

(2) Where it appears to the Registrar that, in the case of a person who has offered to give a disqualification undertaking−

(a) the conduct of the person in relation to a body corporate of which the person is or has been a director or shadow director makes him unfit to be concerned in the management of a company, and

(b) it is in the public interest that he should accept the undertaking (instead of making a disqualification order),

it may accept the undertaking.

(3) The maximum period of disqualification under this section is 15 years.

241. Variation etc. of disqualification undertaking

The Registrar may, on the application of a person who is subject to a disqualification undertaking−

(a) reduce the period for which the undertaking is to be in force, or

(b) provide for it to cease to be in force.

242. Matters for determining unfitness of directors

(1) Where it falls to the Registrar to determine whether a person's conduct as a director of any particular company or companies makes him unfit to be concerned in the management of a company, the Registrar shall, as respects his conduct as a director of that company or, as the case may be, each of those companies, have regard in particular−

(a) to the matters mentioned in Part I of Schedule 2 to these Regulations, and

(b) where the company has become insolvent, to the matters mentioned in Part II of that Schedule,

and references in that Schedule to the director and the company are to be read accordingly.

(2) In determining whether it may accept a disqualification undertaking from any person the Registrar shall, as respects the person's conduct as a director of any company concerned, have regard in particular−

(a) to the matters mentioned in Part I of Schedule 2 to these Regulations, and

(b) where the company has become insolvent, to the matters mentioned in Part II of that Schedule,

and references in that Schedule to the director and the company are to be read accordingly.

(3) Section 238(2) applies for the purposes of this section and Schedule 2 as it applies for the purposes of section 238 (duty of Registrar to disqualify unfit directors of insolvent companies) and 239 (disqualification order or undertaking; and reporting provisions) and in this section and that Schedule "director" includes a shadow director.

(4) The Board may make rules modifying any of the provisions of Schedule 2, and such rules may contain such transitional provisions as may appear to the Board to be necessary or expedient.

243. Participation in wrongful trading

(1) Where the Court makes a declaration under Part 4 (protection of assets in liquidation and administration) of the Insolvency Regulations 2015 that a person is liable to make a contribution to a company's assets, the Registrar may, if it thinks fit, make a disqualification order against the person to whom the declaration relates.

(2) The maximum period of disqualification under this section is 15 years.

244. Penalties

If a person acts in contravention of a disqualification order or disqualification undertaking, he shall be liable to a fine of up to level 5.

245. Breach by a body corporate

(1) Where a body corporate is acts in contravention of a disqualification order or disqualification undertaking, and it is proved that the contravention occurred with the consent or connivance of, or was attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity he, as well as the body corporate, commits the contravention and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

246. Personal liability for company's debts where person acts while disqualified

(1) A person is personally responsible for all the relevant debts of a company if at any time−

(a) in contravention of a disqualification order or disqualification undertaking he is involved in the management of the company, or

(b) as a person who is involved in the management of the company, he acts or is willing to act on instructions given without the permission of the Registrar by a person whom he knows at that time−

(i) to be the subject of a disqualification order made or disqualification undertaking accepted under these Regulations, or

(ii) to be an undischarged bankrupt.

(2) Where a person is personally responsible under this section for the relevant debts of a company, he is jointly and severally liable in respect of those debts with the company and any other person who, whether under this section or otherwise, is so liable.

(3) For the purposes of this section the relevant debts of a company are−

(a) in relation to a person who is personally responsible under subsection (1)(a), such debts and other liabilities of the company as are incurred at a time when that person was involved in the management of the company, and

(b) in relation to a person who is personally responsible under subsection (1)(b), such debts and other liabilities of the company as are incurred at a time when that person was acting or was willing to act on instructions given as mentioned in that subsection.

(4) For the purposes of this section, a person is involved in the management of a company if he is a director of the company or if he is concerned, whether directly or indirectly, or takes part, in the management of the company.

(5) For the purposes of this section a person who, as a person involved in the management of a company, has at any time acted on instructions given without the permission of the Registrar by a person whom he knew at that time−

(a) to be the subject of a disqualification order made or disqualification undertaking accepted under these Regulations, or

(b) to be an undischarged bankrupt,

is presumed, unless the contrary is shown, to have been willing at any time thereafter to act on any instructions given by that person.

247. Proposal to make disqualification order

(1) If the Registrar proposes to make a disqualification order against a person, it must give him a warning notice.

(2) A warning notice must state the period of disqualification under the proposed disqualification order.

248. Decision notice

(1) If the Registrar decides to make a disqualification order against a person, it must without delay give him a decision notice.

(2) The decision notice must state the period of disqualification under the disqualification order.

(3) If the Registrar decides to make a disqualification order against a person, that person may refer the matter to the Court.

249. Statements of policy

(1) The Registrar must prepare and issue a statement of its policy with respect to−

(a) the making of disqualification orders under this Part; and

(b) the acceptance of disqualification undertakings under this Part.

(2) The Registrar may at any time alter or replace a statement issued by it under this section.

(3) If a statement issued under this section is altered or replaced by the Registrar, the Registrar must issue the altered or replacement statement.

(4) The Registrar must, without delay, give the Board a copy of any statement which it publishes under this section.

(5) A statement issued under this section by the Registrar must be published by the Registrar in the way appearing to the Registrar to be best calculated to bring it to the attention of the public.

(6) In exercising, or deciding whether to exercise its power under this Part, the Registrar must have regard to any statement published by it under this section and in force at the time when the conduct giving rise to the exercise of its power under this Part occurred.

(7) The Registrar may charge a reasonable fee for providing a person with a copy of the statement.

250. Statements of policy: procedure

(1) Before the Registrar issues a statement under section 249 (statements of policy), the Registrar must publish a draft of the proposed statement in the way appearing to the Registrar to be best calculated to bring it to the attention of the public.

(2) The draft must be accompanied by notice that representations about the proposal may be made to the Registrar within a specified time.

(3) Before issuing the proposed statement, the Registrar must have regard to any representations made to it in accordance with subsection (2).

(4) If the Registrar issues the proposed statement it must publish an account, in general terms, of−

(a) the representations made to it in accordance with subsection (2); and

(b) its response to them.

(5) If the statement differs from the draft published under subsection (1) in a way which is, in the opinion of the Registrar, significant, the Registrar must (in addition to complying with subsection (4)) publish details of the difference.

(6) The Registrar may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1).

(7) This section also applies to a proposal to alter or replace a statement.

251. Warning notices

(1) A warning notice must−

(a) state the action which the Registrar proposes to take;

(b) be in writing;

(c) give reasons for the proposed action;

(d) state whether section 257 (access to material) applies; and

(e) if that section applies, describe its effect and state whether any secondary material exists to which the person receiving the notice must be allowed access under it.

(2) A warning notice must specify a reasonable period (which may not be less than 14 days) within which the person to whom it is given may make representations to the Registrar.

(3) The Registrar may extend the period specified in the notice.

(4) The Registrar must then decide, within a reasonable period, whether to give the person receiving the warning notice a decision notice.

252. Decision notices

A decision notice must−

(a) be in writing;

(b) give the reasons of the Registrar for the decision to take the action to which the notice relates;

(c) state whether section 257 (access to material) applies;

(d) if that section applies, describe its effect and state whether any secondary material exists to which the person receiving the notice must be allowed access under it; and

(e) give an indication of−

(i) any right to have the matter referred to the Court which is given by these Regulations; and

(ii) the procedure on such a reference.

253. Notices of discontinuance

(1) If the Registrar decides not to take−

(a) the action proposed in a warning notice given by it, or

(b) the action to which a decision notice given by it relates,

it must give a notice of discontinuance to the person to whom the warning notice or decision notice was given.

(2) A notice of discontinuance must identify the proceedings which are being discontinued.

254. Appeals

(1) A person may appeal to the Court from any decision of the Registrar to issue a decision notice to him under section 252 (decision notices).

(2) If notice of appeal is given against a decision notice, the effect of the Registrar's notice is suspended.

(3) On appeal the Court may (as the case may require) specify the terms of the final notice to be issued under section 255 (final notices), remit the matter to the Registrar or make any order or determination that the Registrar might have made.

255. Final notices

(1) If the Registrar has given a person a decision notice and the matter was not referred to the Court within one month, the Registrar must, on taking the action to which the decision notice relates, give such person and any person to whom the decision notice was copied a final notice.

(2) If the Registrar has given a person a decision notice and the matter was referred to the Court within one month, the Registrar must, on taking action in accordance with any directions given by the Court give that person and any person to whom the decision notice was copied a notice required by subsection (3).

(3) The notice required by this subsection is−

(a) in a case where the Court has upheld an appeal against a decision notice, a discontinuation notice, and

(b) in any other case, a final notice.

(4) A final notice must state the period of disqualification under the disqualification order.

256. Third party rights

(1) If any of the reasons contained in a warning notice relates to a matter which−

(a) identifies a person ("the third party") other than the person to whom the notice is given, and

(b) in the opinion of the Registrar, is prejudicial to the third party,

a copy of the notice must be given to the third party.

(2) Subsection (1) does not require a copy to be given to the third party if the Registrar−

(a) has given him a separate warning notice in relation to the same matter; or

(b) gives him such a notice at the same time as it gives the warning notice which identifies him.

(3) The notice copied to a third party under subsection (1) must specify a reasonable period (which may not be less than 14 days) within which he may make representations to the Registrar.

(4) If any of the reasons contained in a decision notice to which this section applies relates to a matter which−

(a) identifies a person ("the third party") other than the person to whom the decision notice is given, and

(b) in the opinion of the Registrar, is prejudicial to the third party,

a copy of the notice must be given to the third party.

(5) If the decision notice was preceded by a warning notice, a copy of the decision notice must (unless it has been given under subsection (4)) be given to each person to whom the warning notice was copied.

(6) Subsection (4) does not require a copy to be given to the third party if the Registrar−

(a) has given him a separate decision notice in relation to the same matter; or

(b) gives him such a notice at the same time as it gives the decision notice which identifies him.

(7) Neither subsection (1) nor subsection (4) requires a copy of a notice to be given to a third party if the Registrar considers it impracticable to do so.

(8) Subsections (9) to (11) apply if the person to whom a decision notice is given has a right to refer the matter to the Court.

(9) A person to whom a copy of the notice is given under this section may refer to the Court−

(a) the decision in question, so far as it is based on a reason of the kind mentioned in subsection (4); or

(b) any opinion expressed by the Registrar in relation to him.

(10) The copy must be accompanied by an indication of the third party's right to make a reference under subsection (9) and of the procedure on such a reference.

(11) A person who alleges that a copy of the notice should have been given to him, but was not, may refer to the Court the alleged failure and−

(a) the decision in question, so far as it is based on a reason of the kind mentioned in subsection (4); or

(b) any opinion expressed by the Registrar in relation to him.

(12) Section 257 (access to material) applies to a third party as it applies to the person to whom the notice to which this section applies was given, in so far as the material to which access must be given under that section relates to the matter which identifies the third party.

(13) A copy of a notice given to a third party under this section must be accompanied by a description of the effect of section 257 (access to material) as it applies to him.

(14) Any person to whom a warning notice or decision notice was copied under this section must be given a copy of a notice of discontinuance applicable to the proceedings to which the warning notice or decision notice related.

257. Access to material

(1) If the Registrar gives a person ("A") a warning notice or a decision notice, it must−

(a) allow him access to the material on which it relied in taking the decision which gave rise to the obligation to give the notice;

(b) allow him access to any secondary material which, in the Registrar's opinion, might undermine that decision.

(2) But the Registrar does not have to allow A access to material under subsection (1) if the material is excluded material or it−

(a) relates to a case involving a person other than A; and

(b) was taken into account by the Registrar in A's case only for purposes of comparison with other cases.

(3) The Registrar may refuse A access to particular material which it would otherwise have to allow him access to if, in its opinion, allowing him access to the material−

(a) would not be in the public interest; or

(b) would not be fair, having regard to−

(i) the likely significance of the material to A in relation to the matter in respect of which he has been given a notice; and

(ii) the potential prejudice to the commercial interests of a person other than A which would be caused by the material's disclosure.

(4) If the Registrar does not allow A access to material because it is excluded material consisting of a protected item, it must give A written notice of−

(a) the existence of the protected item; and

(b) the Registrar's decision not to allow him access to it.

(5) If the Registrar refuses under subsection (3) to allow A access to material, it must give him written notice of−

(a) the refusal; and

(b) the reasons for it.

(6) "Secondary material" means material, other than material falling within subsection (1)(a) which−

(a) was considered by the Registrar in reaching the decision mentioned in that subsection; or

(b) was obtained by the Registrar in connection with the matter to which that notice relates but which was not considered by it in reaching that decision.

(7) "Excluded material" means material which is a protected item (as defined in section 260 (protected items).

258. The Registrar's procedures

(1) The Registrar must determine the procedure that it proposes to follow in relation to a decision which gives rise to an obligation for it to give a warning notice or decision notice.

(2) That procedure must be designed to secure, among other things, that a decision falling within subsection (1) is taken−

(a) by a person not directly involved in establishing the evidence on which the decision is based, or

(b) by 2 or more persons who include a person not directly involved in establishing that evidence.

(3) The Registrar must issue a statement of its procedure.

(4) The statement must be published in the way appearing to the Registrar to be best calculated to bring the statement to the attention of the public.

(5) The Registrar may charge a reasonable fee for providing a person with a copy of the statement.

(6) The Registrar must, without delay, give the Board a copy of the statement.

(7) When the Registrar gives a warning notice or decision notice, the Registrar must follow its stated procedure.

(8) If the Registrar changes its procedure in a material way, it must publish a revised statement.

(9) The Registrar's failure in a particular case to follow its procedure as set out in the latest published statement does not affect the validity of a notice given in that case.

(10) But subsection (9) does not prevent the Court from taking into account any such failure in considering a matter referred to it.

259. Statements under section 258: consultation

(1) Before issuing a statement of its procedure under section 258 (the Registrar's procedures), the Registrar must publish a draft of the proposed statement in the way appearing to it to be best calculated to bring the draft to the attention of the public.

(2) The draft must be accompanied by notice that representations about the proposal may be made to the Registrar within a specified time.

(3) Before the Registrar issues the proposed statement of its procedure, it must have regard to any representations made to it in accordance with subsection (2).

(4) If the Registrar issues the proposed statement of its procedure, it must publish an account, in general terms, of−

(a) the representations made to it in accordance with subsection (2); and

(b) its response to them.

(5) If the statement of the Registrar's procedure differs from the draft published by it under subsection (1) in a way which is, in its opinion, significant, it must (in addition to complying with subsection (4)) publish details of the difference.

(6) The Registrar may charge a reasonable fee for providing a person with a copy of the draft published under subsection (1).

(7) This section also applies to a proposal to revise a statement of policy.

260. Protected items

(1) A person may not be required under these Regulations to produce, disclose or permit the inspection of protected items.

(2) "Protected items" means−

(a) communications between a professional legal adviser and his client or any person representing his client which fall within subsection (3);

(b) communications between a professional legal adviser, his client or any person representing his client and any other person which fall within subsection (3) (as a result of subsection (3)(b));

(c) items which−

(i) are enclosed with, or referred to in, such communications;

(ii) fall within subsection (3); and

(iii) are in the possession of a person entitled to possession of them.

(3) A communication or item falls within this subsection if it is made−

(a) in connection with the giving of legal advice to the client; or

(b) in connection with, or in contemplation of, legal proceedings and for the purposes of those proceedings.

(4) A communication or item is not a protected item if it is held with the intention of furthering a criminal purpose.

261. Register of disqualification orders and undertakings[4]

(1) The Registrar shall maintain a register of disqualification orders made under these Regulations, and of cases in which permission is granted by the Registrar for a person subject to a disqualification order to do any thing which otherwise the order prohibits him from doing.

(2) The Registrar must include in the register such particulars as it considers appropriate of−

(a) disqualification undertakings accepted by him under sections 239 (disqualification order or undertaking; and reporting provisions) and 240 (disqualification of persons unfit to be directors),

(b) cases in which permission is granted by the Registrar for a person subject to such an undertaking to do anything which otherwise the undertaking prohibits him from doing.

(3) When an order or undertaking of which entry is made in the register ceases to be in force, the Registrar shall delete the entry from the register and all particulars relating to it which have been furnished to it under this section or any previous corresponding provision and, in the case of a disqualification undertaking, any other particulars it has included in the register.

(4) The register shall be open to inspection.

262. Admissibility in evidence of statements

In any proceedings (whether or not under these Regulations), any statement made in pursuance of a requirement imposed by or under these Regulations, or by or under rules made for the purposes of these Regulations under the Insolvency Regulations 2015,

[4] Amended 7 September 2022

may be used in evidence against any person making or concurring in making the statement.

CHAPTER 10

COMPANY DIRECTORS: NON-ABU DHABI GLOBAL MARKET DISQUALIFICATION ETC.

Introductory

263. Persons subject to non-Abu Dhabi Global Market restrictions

(1) This section defines what is meant by references in this Chapter to a person being subject to foreign restrictions.

(2) A person is subject to non-Abu Dhabi Global Market restrictions if under the laws of the United Arab Emirates as applicable outside of the Abu Dhabi Global Market, or of a country or territory outside the Abu Dhabi Global Market–

(a) he is, by reason of misconduct or unfitness, disqualified to any extent from acting in connection with the affairs of a non-ADGM company,

(b) he is, by reason of misconduct or unfitness, required–

(i) to obtain permission from a Court or other authority, or

(ii) to meet any other condition,

before acting in connection with the affairs of a non-ADGM company, or

(c) he has, by reason of misconduct or unfitness, given undertakings to a Court or other authority of a country or territory outside the Abu Dhabi Global Market–

(i) not to act in connection with the affairs of a non-ADGM company, or

(ii) restricting the extent to which, or the way in which, he may do so.

(3) The references in subsection (2) to acting in connection with the affairs of a non-ADGM company are to doing any of the following–

(a) being a director of a company,

(b) acting as receiver of a company's property, or

(c) being concerned or taking part in the promotion, formation or management of a company.

(4) In this section–

(a) "non-ADGM company" has the meaning given to that term in section 1028 (minor definitions: general), and

(b) in relation to such a non-ADGM company–

"director" means the holder of an office corresponding to that of director of a company incorporated under these Regulations, and

"receiver" includes any corresponding officer under the law of that country or territory.

Power to disqualify

264. Disqualification of persons subject to non-Abu Dhabi Global Market restrictions

(1) The Board may make rules disqualifying a person subject to non-Abu Dhabi Global Market restrictions from–

(a) being a director of a company,

(b) acting as receiver of a company's property, or

(c) in any way, whether directly or indirectly, being concerned or taking part in the promotion, formation or management of a company.

(2) The rules may provide that a person subject to non-Abu Dhabi Global Market restrictions–

(a) is disqualified automatically by virtue of the rules, or

(b) may be disqualified by order made by the Registrar.

(3) The rules may provide that the Registrar may accept an undertaking (a "disqualification undertaking") from a person subject to non-Abu Dhabi Global Market restrictions that he will not do anything which would be in breach of a disqualification under subsection (1).

(4) In this Part–

(a) a "person disqualified under this Part" is a person–

(i) disqualified as mentioned in subsection (2)(a) or (b), or

(ii) who has given and is subject to a disqualification undertaking,

(b) references to a breach of a disqualification include a breach of a disqualification undertaking.

(5) The rules may provide for applications to the Registrar by persons disqualified under this Part for permission to act in a way which would otherwise be in breach of the disqualification.

(6) The rules must provide that a person ceases to be disqualified under this Part on his ceasing to be subject to non-Abu Dhabi Global Market restrictions.

265. Disqualification rules: supplementary

(1) Rules made under section 264 (disqualification of persons subject to non-Abu Dhabi Global Market restrictions) may make different provision for different cases and may in particular distinguish between cases by reference to–

(a) the conduct on the basis of which the person became subject to non-Abu Dhabi Global Market restrictions,

(b) the nature of the non-Abu Dhabi Global Market restrictions,

(c) the country or territory under whose law the non-Abu Dhabi Global Market restrictions were imposed.

(2) Rules made under section 264(5) (provision for applications to the Registrar)–

(a) must specify the grounds on which an application may be made,

(b) may specify factors to which the Registrar shall have regard in determining an application.

(3) The rules may, in particular, require the Registrar to have regard to the following factors–

(a) whether the conduct on the basis of which the person became subject to non-Abu Dhabi Global Market restrictions would, if done in relation to a company, have led the Registrar to make a disqualification order pursuant to law or regulation applicable in the Abu Dhabi Global Market,

(b) in a case in which the conduct on the basis of which the person became subject to non-Abu Dhabi Global Market restrictions would not be unlawful if done in relation to a company, the fact that the person acted unlawfully under non-Abu Dhabi Global Market law,

(c) whether the person's activities in relation to companies began after he became subject to non-Abu Dhabi Global Market restrictions, or

(d) whether the person's activities (or proposed activities) in relation to companies are undertaken (or are proposed to be undertaken) outside the Abu Dhabi Global Market.

(4) Rules made under section 264(3) (provision as to undertakings given to the Registrar) may include provision allowing the Registrar, in determining whether to accept an undertaking, to take into account matters other than criminal convictions notwithstanding that the person may be liable in respect of those matters.

266. Contravention of breach of disqualification

(1) Rules made under section 264 (disqualification of persons subject to non-Abu Dhabi Global Market restrictions) may provide that a person disqualified under this Part who acts in breach of the disqualification is in contravention of these Regulations.

(2) A person who commits the contravention referred to in subsection (1) is liable to a fine up to level 5.

Power to make persons liable for company's debts

267. Personal liability for debts of company

(1) The Board may make rules providing that a person who, at a time when he is subject to non-Abu Dhabi Global Market restrictions–

(a) is a director of a company, or

(b) is involved in the management of a company,

is personally responsible for all debts and other liabilities of the company incurred during that time.

(2) A person who is personally responsible by virtue of this section for debts and other liabilities of a company is jointly and severally liable in respect of those debts and liabilities with–

(a) the company, and

(b) any other person who (whether by virtue of this section or otherwise) is so liable.

(3) For the purposes of this section a person is involved in the management of a company if he is concerned, whether directly or indirectly, or takes part, in the management of the company.

(4) Rules made under this section may make different provision for different cases and may in particular distinguish between cases by reference to–

(a) the conduct on the basis of which the person became subject to non-Abu Dhabi Global Market restrictions,

(b) the nature of the non-Abu Dhabi Global Market restrictions,

(c) the country or territory under whose law the non-Abu Dhabi Global Market restrictions were imposed.

Power to require statements to be sent to the Registrar of companies

268. Statements from persons subject to non-Abu Dhabi Global Market restrictions

(1) The Board may make rules requiring a person who–

(a) is subject to non-Abu Dhabi Global Market restrictions, and

(b) is not disqualified under this Part,

to send a statement to the Registrar if he does anything that, if done by a person disqualified under this Part, would be in breach of the disqualification.

(2) The statement must include such information as may be specified in the rules relating to–

(a) the person's activities in relation to companies, and

(b) the non-Abu Dhabi Global Market restrictions to which the person is subject.

(3) The statement must be sent to the Registrar within such period as may be specified in the rules.

(4) The rules may make different provision for different cases and may in particular distinguish between cases by reference to–

(a) the conduct on the basis of which the person became subject to non-Abu Dhabi Global Market restrictions,

(b) the nature of the non-Abu Dhabi Global Market restrictions,

(c) the country or territory under whose law the non-Abu Dhabi Global Market restrictions were imposed.

269. Statements: whether to be made public

(1) Rules made under section 268 (statements from a person subject to non-Abu Dhabi Global Market restrictions) may provide that a statement sent to the Registrar under such rules is to be treated as a record subject to enhanced disclosure requirements for the purposes of section 952 (documents subject to enhanced disclosure requirements).

(2) The rules may make provision as to the circumstances in which such a statement is to be, or may be–

(a) withheld from public inspection, or

(b) removed from the register.

(3) The rules may, in particular, provide that a statement is not to be withheld from public inspection or removed from the register unless the person to whom it relates provides such information, and satisfies such other conditions, as may be specified.

270. Contraventions

(1) Rules made under section 268 (statements from a person subject to non-Abu Dhabi Global Market restrictions) may provide that it is a contravention of these Regulations for a person–

(a) to fail to comply with a requirement under the rules to send a statement to the Registrar,

(b) knowingly or recklessly to send a statement under the rules to the Registrar that is misleading, false or deceptive in a material particular.

(2) The rules may provide that a person who commits the contravention referred to in subsection (1)(a) is liable to a fine of up to level 5.

(3) The rules may provide that a person who commits the contravention referred to in subsection (1)(b) is liable to a fine of up to level 8.

Chapter 11

SUPPLEMENTARY PROVISIONS

Provision for employees on cessation or transfer of business

271. Power to make provision for employees on cessation or transfer of business

(1) The powers of the directors of a company include (if they would not otherwise do so) power to make provision for the benefit of persons employed or formerly employed by the company, or any of its subsidiaries, in connection with the cessation or the transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

(2) This power is exercisable notwithstanding the general duty imposed by section 162 (duty to promote the success of the company).

(3) In the case of a company that is a charity it is exercisable notwithstanding any restrictions on the directors' powers (or the company's capacity) flowing from the objects of the company.

(4) The power may only be exercised if sanctioned–

(a) by a resolution of the company, or

(b) by a resolution of the directors,

in accordance with the following provisions.

(5) A resolution of the directors–

(a) must be authorised by the company's articles, and

(b) is not sufficient sanction for payments to or for the benefit of directors, former directors or shadow directors.

(6) Any other requirements of the company's articles as to the exercise of the power conferred by this section must be complied with.

(7) Any payment under this section must be made–

(a) before the commencement of any winding up of the company, and

(b) out of profits of the company that are available for dividend.

Records of meetings of directors

272. Minutes of directors' meetings

(1) Every company must cause minutes of all proceedings at meetings of its directors to be recorded.

(2) The records must be kept for at least ten years from the date of the meeting.

(3) If a company fails to comply with this section, a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 3 fine.

273. Minutes as evidence

(1) Minutes recorded in accordance with section 272 (minutes of directors' meetings), if purporting to be authenticated by the chairman of the meeting or by the chairman of the next directors' meeting, are evidence of the proceedings at the meeting.

(2) Where minutes have been made in accordance with that section of the proceedings of a meeting of directors, then, until the contrary is proved–

(a) the meeting is deemed duly held and convened,

(b) all proceedings at the meeting are deemed to have duly taken place, and

(c) all appointments at the meeting are deemed valid.

274. Persons connected with a director

(1) This section defines what is meant by references in this Part to a person being "connected" with a director of a company (or a director being "connected" with a person).

(2) The following persons (and only those persons) are connected with a director of a company–

(a) members of the director's family (see section 275 (members of a director's family)),

(b) a body corporate with which the director is connected (as defined in section 276 (director "connected with" a body corporate)),

(c) a person acting in his capacity as trustee of a trust–

(i) the beneficiaries of which include the director or a person who by virtue of subsection (2)(a) or (b) is connected with him, or

(ii) the terms of which confer a power on the trustees that may be exercised for the benefit of the director or any such person,

other than a trust for the purposes of an employees' share scheme or a pension scheme,

(d) a person acting in his capacity as partner–

(i) of the director, or

(ii) of a person who, by virtue of subsection (2)(a), (b) or (c), is connected with that director,

(e) a firm that is a legal person under the law by which it is governed and in which–

(i) the director is a partner,

(ii) a partner is a person who, by virtue of subsection (2)(a), (b) or (c) is connected with the director, or

(iii) a partner is a firm in which the director is a partner or in which there is a partner who, by virtue of subsection (2)(a), (b) or (c), is connected with the director.

(3) References in this Part to a person connected with a director of a company do not include a person who is himself a director of the company.

275. Members of a director's family

(1) This section defines what is meant by references in this Part to members of a director's family.

(2) For the purposes of this Part the members of a director's family are–

(a) the director's spouse,

(b) the director's children or step-children,

(c) the director's parents.

276. Director "connected with" a body corporate

(1) This section defines what is meant by references in this Part to a director being "connected with" a body corporate.

(2) A director is connected with a body corporate if, but only if, he and the persons connected with him together–

(a) are interested in shares comprised in the equity share capital of that body corporate equal in value to at least 20% of that share capital, or

(b) are entitled to exercise or control the exercise of more than 20% of the voting power at any general meeting of that body.

(3) The rules set out in Schedule 1 (references to interest in shares or debentures) apply for the purposes of this section.

(4) References in this section to voting power the exercise of which is controlled by a director include voting power whose exercise is controlled by a body corporate controlled by him.

(5) Shares in a company held as treasury shares, and any voting rights attached to such shares, are disregarded for the purposes of this section.

(6) For the avoidance of circularity in the application of section 274 (persons connected with a director)–

(a) a body corporate with which a director is connected is not treated for the purposes of this section as connected with him unless it is also connected with him by virtue of subsection (2)(c) or (d) of that section (connection as trustee or partner), and

(b) a trustee of a trust the beneficiaries of which include (or may include) a body corporate with which a director is connected is not treated for the purposes of this section as connected with a director by reason only of that fact.

277. Director "controlling" a body corporate

(1) This section defines what is meant by references in this Part to a director "controlling" a body corporate.

(2) A director of a company is taken to control a body corporate if, but only if–

(a) he or any person connected with him–

(i) is interested in any part of the equity share capital of that body, or

(ii) is entitled to exercise or control the exercise of any part of the voting power at any general meeting of that body, and

(b) he, the persons connected with him and the other directors of that company, together–

(i) are interested in more than 50% of that share capital, or

(ii) are entitled to exercise or control the exercise of more than 50% of that voting power.

(3) The rules set out in Schedule 1 (references to interest in shares or debentures) apply for the purposes of this section.

(4) References in this section to voting power the exercise of which is controlled by a director include voting power whose exercise is controlled by a body corporate controlled by him.

(5) Shares in a company held as treasury shares, and any voting rights attached to such shares, are disregarded for the purposes of this section.

(6) For the avoidance of circularity in the application of section 274 (persons connected with a director)–

(a) a body corporate with which a director is connected is not treated for the purposes of this section as connected with him unless it is also connected with him by virtue of subsection (2)(c) or (d) of that section (connection as trustee or partner), and

(b) a trustee of a trust the beneficiaries of which include (or may include) a body corporate with which a director is connected is not treated for the purposes of this section as connected with a director by reason only of that fact.

278. Associated bodies corporate

For the purposes of this Part–

(a) bodies corporate are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and

(b) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

279. References to company's constitution

(1) References in this Part to a company's constitution include–

(a) any resolution or other decision come to in accordance with the constitution, and

(b) any decision by the members of the company, or a class of members, that is treated by virtue of any rule of law applicable in the Abu Dhabi Global Market as equivalent to a decision by the company.

(2) This is in addition to the matters mentioned in section 15 (a company's constitution).

280. Power to increase financial limits

If the Board makes rules substituting any sum of money specified in this Part for a larger sum specified in those rules, those rules do not have effect in relation to anything done or not done before they come into force.

Accordingly, proceedings in respect of any liability incurred before that time may be continued or instituted as if those rules had not been made.

281. Transactions under foreign law

For the purposes of this Part it is immaterial whether the law that (apart from these Regulations) governs an arrangement or transaction is the law of the Abu Dhabi Global Market or not.

Part 11

DERIVATIVE CLAIMS AND PROCEEDINGS BY MEMBERS

Chapter 1

DERIVATIVE CLAIMS

282. Derivative claims

(1) This Chapter applies to proceedings by a member of a company–

(a) in respect of a cause of action vested in the company, and

(b) seeking relief on behalf of the company.

This is referred to in this Chapter as a "derivative claim".

(2) A derivative claim may only be brought–

(a) under this Chapter, or

(b) in pursuance of an order of the Court in proceedings under Part 28.

(3) A derivative claim under this Chapter may be brought only by:

(a) a member holding 5% or more of the share capital of the company, or

(b) a member with the written consent of members holding together with the first mentioned member 5% or more of the share capital of the company

(an "eligible member") in respect of a cause of action arising from an actual or proposed act or omission involving negligence, default, breach of duty or breach of trust by a director of the company.

The cause of action may be against the director or another person (or both).

(4) It is immaterial whether the cause of action arose before or after the person seeking to bring or continue the derivative claim became an eligible member of the company.

(5) For the purposes of this Chapter–

(a) "director" includes a former director,

(b) a shadow director is treated as a director, and

(c) references to a member of a company include a person who is not a member but to whom shares in the company have been transferred or transmitted by operation of law.

283. Application for permission to continue derivative claim

(1) An eligible member of a company who brings a derivative claim under this Chapter must apply to the Court for permission to continue it.

(2) If it appears to the Court that the application and the evidence filed by the applicant in support of it do not disclose a prima facie case for giving permission, the Court–

(a) must dismiss the application, and

(b) may make any consequential order it considers appropriate.

(3) If the application is not dismissed under subsection (2), the Court–

(a) may give directions as to the evidence to be provided by the company, and

(b) may adjourn the proceedings to enable the evidence to be obtained.

(4) On hearing the application, the Court may–

(a) give permission to continue the claim on such terms as it thinks fit,

(b) refuse permission and dismiss the claim, or

(c) adjourn the proceedings on the application and give such directions as it thinks fit.

284. Application for permission to continue claim as a derivative claim

(1) This section applies where–

(a) a company has brought a claim, and

(b) the cause of action on which the claim is based could be pursued as a derivative claim under this Chapter.

(2) An eligible member of the company may apply to the Court for permission to continue the claim as a derivative claim on the ground that–

(a) the manner in which the company commenced or continued the claim amounts to an abuse of the process of the Court,

(b) the company has failed to prosecute the claim diligently, and

(c) it is appropriate for the member to continue the claim as a derivative claim.

(3) If it appears to the Court that the application and the evidence filed by the applicant in support of it do not disclose a prima facie case for giving permission, the Court–

(a) must dismiss the application, and

(b) may make any consequential order it considers appropriate.

(4) If the application is not dismissed under subsection (3), the Court–

(a) may give directions as to the evidence to be provided by the company, and

(b) may adjourn the proceedings to enable the evidence to be obtained.

(5) On hearing the application, the Court may–

(a) give permission to continue the claim as a derivative claim on such terms as it thinks fit,

(b) refuse permission and dismiss the application, or

(c) adjourn the proceedings on the application and give such directions as it thinks fit.

285. Whether permission to be given

(1) The following provisions have effect where a member of a company applies for permission under section 283 (application for permission to continue derivative claim) or 284 (application for permission to continue claim as a derivative claim).

(2) Permission must be refused if the Court is satisfied–

(a) that a person acting in accordance with section 162 (duty to promote the success of the company) would not seek to continue the claim, or

(b) where the cause of action arises from an act or omission that is yet to occur, that the act or omission has been authorised by the company, or

(c) where the cause of action arises from an act or omission that has already occurred, that the act or omission–

(i) was authorised by the company before it occurred, or

(ii) has been ratified by the company since it occurred.

(3) In considering whether to give permission the Court must take into account, in particular–

(a) whether the eligible member is acting in good faith in seeking to continue the claim,

(b) the importance that a person acting in accordance with section 162 (duty to promote the success of the company) would attach to continuing it,

(c) where the cause of action results from an act or omission that is yet to occur, whether the act or omission could be, and in the circumstances would be likely to be–

(i) authorised by the company before it occurs, or

(ii) ratified by the company after it occurs,

(d) where the cause of action arises from an act or omission that has already occurred, whether the act or omission could be, and in the circumstances would be likely to be, ratified by the company,

(e) whether the company has decided not to pursue the claim,

(f) whether the act or omission in respect of which the claim is brought gives rise to a cause of action that the member could pursue in his own right rather than on behalf of the company.

(4) In considering whether to give permission the Court shall have particular regard to any evidence before it as to the views of members of the company who have no personal interest, direct or indirect, in the matter.

286. Application for permission to continue derivative claim brought by another eligible member

(1) This section applies where an eligible member of a company ("the claimant")–

(a) has brought a derivative claim,

(b) has continued as a derivative claim a claim brought by the company, or

(c) has continued a derivative claim under this section.

(2) Another eligible member of the company ("the applicant") may apply to the Court for permission to continue the claim on the ground that–

(a) the manner in which the proceedings have been commenced or continued by the claimant amounts to an abuse of the process of the Court,

(b) the claimant has failed to prosecute the claim diligently, and

(c) it is appropriate for the applicant to continue the claim as a derivative claim.

(3) If it appears to the Court that the application and the evidence filed by the applicant in support of it do not disclose a prima facie case for giving permission, the Court –

(a) must dismiss the application, and

(b) may make any consequential order it considers appropriate.

(4) If the application is not dismissed under subsection (3), the Court–

(a) may give directions as to the evidence to be provided by the company, and

(b) may adjourn the proceedings to enable the evidence to be obtained.

(5) On hearing the application, the Court may–

(a) give permission to continue the claim on such terms as it thinks fit,

(b) refuse permission and dismiss the application, or

(c) adjourn the proceedings on the application and give such directions as it thinks fit.

Part 12

COMPANY SECRETARIES AND COMPANY SERVICE PROVIDERS

Chapter 1

COMPANY SECRETARIES

287. Private company not required to have secretary

(1) A private company is not required to have a secretary.

(2) References in these Regulations to a private company "without a secretary" are to a private company that for the time being is taking advantage of the exemption in subsection (1), and references to a private company "with a secretary" shall be construed accordingly.

(3) In the case of a private company without a secretary–

(a) anything authorised or required to be given or sent to, or served on, the company by being sent to its secretary–

(i) may be given or sent to, or served on, the company itself, and

(ii) if addressed to the secretary shall be treated as addressed to the company, and

(b) anything else required or authorised to be done by or to the secretary of the company may be done by or to–

(i) a director, or

(ii) a person authorised generally or specifically in that behalf by the directors.

288. Public company required to have secretary

A public company must have a secretary.

289. Direction requiring public company to appoint secretary

(1) If it appears to the Registrar that a public company is in breach of section 288 (public company required to have secretary), the Registrar may give the company a direction under this section.

(2) The direction must state that the company appears to be in breach of that section and specify–

(a) what the company must do in order to comply with the direction, and

(b) the period within which it must do so.

That period must be not less than one month or more than three months after the date on which the direction is given.

(3) The direction must also inform the company of the consequences of failing to comply.

(4) Where the company is in breach of section 288 (public company required to have secretary) it must comply with the direction by–

(a) making the necessary appointment, and

(b) giving notice of it under section 293 (duty to notify Registrar of changes),

before the end of the period specified in the direction.

(5) If the company has already made the necessary appointment, it must comply with the direction by giving notice of it under section 293 (duty to notify Registrar of changes) before the end of the period specified in the direction.

(6) If a company fails to comply with a direction under this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(7) A person who commits the contravention referred to in subsection (6) shall be liable to a level 3 fine.

290. Qualifications of secretaries of public companies

It is the duty of the directors of a public company to take all reasonable steps to secure that the secretary (or each joint secretary) of the company is a person who appears to them to have the requisite knowledge and experience to discharge the functions of secretary of the company.

291. Discharge of functions where office vacant or secretary unable to act

Where in the case of any company the office of secretary is vacant, or there is for any other reason no secretary capable of acting, anything required or authorised to be done by or to the secretary may be done–

(a) by or to an assistant or deputy secretary (if any), or

(b) if there is no assistant or deputy secretary or none capable of acting, by or to any person authorised generally or specifically in that behalf by the directors.

292. Duty to keep register of secretaries

(1) A company must keep a register of its secretaries.

(2) The register must contain the required particulars (see section 294 (particulars of secretaries to be registered: individuals)) of the person who is, or persons who are, the secretary or joint secretaries of the company.

(3) The register must be kept available for inspection–

(a) at the company's registered office, or

(b) at a place specified in rules made by the Board under section 996 (rules about where certain company records to be kept available for inspection).

(4) The company must give notice to the Registrar–

(a) of the place at which the register is kept available for inspection, and

(b) of any change in that place,

unless it has at all times been kept at the company's registered office.

(5) The register must be open to the inspection–

(a) of any member of the company without charge, and

(b) of any other person on payment of such fee as may be prescribed.

(6) If default is made in complying with subsection (1) a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(7) A person who commits the contravention referred to in subsection (6) shall be liable to a level 2 fine.

(8) If default is made in complying with subsection (3), or if default is made for 14 days in complying with subsection (4), a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(9) A person who commits the contravention referred to in subsection (8) shall be liable to a level 1 fine.

(10) In the case of a refusal of inspection of the register, the Court may by order compel an immediate inspection of it.

293. Duty to notify Registrar of changes

(1) A company must, within the period of 14 days from–

(a) a person becoming or ceasing to be its secretary or one of its joint secretaries, or

(b) the occurrence of any change in the particulars contained in its register of secretaries,

give notice to the Registrar of the change and of the date on which it occurred.

(2) Notice of a person having become secretary, or one of joint secretaries, of the company must be accompanied by a consent by that person to act in the relevant capacity.

(3) If default is made in complying with subsection (1)(a), a contravention of these Regulations is committed by every officer of the company who is in default. For this purpose a shadow director is treated as an officer of the company.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 2 fine.

(5) If default is made in complying with subsection (1)(b), a contravention of these Regulations is committed by every officer of the company who is in default. For this purpose a shadow director is treated as an officer of the company.

(6) A person who commits the contravention referred to in subsection (5) shall be liable to a level 1 fine.

294. Particulars of secretaries to be registered: individuals

(1) A company's register of secretaries must contain the following particulars in the case of an individual–

(a) name and any former name,

(b) address.

(2) For the purposes of this section "name" means a person's forename and family name.

(3) For the purposes of this section a "former name" means a name by which the individual was formerly known for business purposes.

Where a person is or was formerly known by more than one such name, each of them must be stated.

(4) It is not necessary for the register to contain particulars of a former name in the following cases where the former name–

(a) was changed or disused before the person attained the age of 18 years, or

(b) has been changed or disused for 20 years or more.

(5) The address required to be stated in the register is a service address.

This may be stated to be "The company's registered office".

295. Particulars of secretaries to be registered: corporate secretaries and firms

(1) A company's register of secretaries must contain the following particulars in the case of a body corporate, or a firm that is a legal person under the law by which it is governed–

(a) corporate or firm name,

(b) registered or principal office,

(c) in any other case, particulars of–

(i) the legal form of the company or firm and the law by which it is governed, and

(ii) if applicable, the register in which it is entered (including details of the state) and its registration number in that register.

(2) If all the partners in a firm are joint secretaries it is sufficient to state the particulars that would be required if the firm were a legal person and the firm had been appointed secretary.

296. Acts done by person in dual capacity

(1) A provision requiring or authorising a thing to be done by or to a director and the secretary of a private company may be satisfied by its being done by or to the same person acting both as director and as, or in place of, the secretary.

(2) A provision requiring or authorising a thing to be done by or to a director and the secretary of a public company is not satisfied by its being done by or to the same person acting both as director and as, or in place of, the secretary.

CHAPTER 2

COMPANY SERVICE PROVIDERS[5]

296A. Non-Exempt Companies to have a company service provider[6]

(1) A company conducting a business activity of being a special purpose company or vehicle must at all times have a company service provider, subject to subsections (3), (4), (5) and (6).

(2) In this Chapter -

(a) a company that is obliged to have a company service provider is referred to as a "non-exempt company",

(b) a "company service provider" is a person licensed pursuant to the Commercial Licensing Regulations 2015 to carry out the controlled activity of providing company services, as defined in Rule 7 of the Commercial Licensing Regulations (Controlled Activities) Rules 2021,

(c) "business activity" has the meaning given to it in the Commercial Licensing Regulations (Controlled Activities) Rules 2021,

(d) "effective date", for the purposes of subsections (5) and (6), means the date commencing 3 months from the date on which the Companies Regulations (Amendment No. 1) 2021 come into force, and

(e) "registered office provider" has the meaning given to it in the Commercial Licensing Regulations (Controlled Activities) Rules 2021.

(3) Notwithstanding subsection (1), a body corporate that is a parent undertaking or subsidiary undertaking of any of the following need not have a company service provider–

(a) persons exempt under the Commercial Licensing Regulations 2015 (Exemptions) Order 2020,

(b) an authorised person within the meaning given to it in the Financial Services and Markets Regulations 2015,

[5] Amended 12 April 2021
[6] Amended 23 February 2023

(c) persons licensed or regulated by the Central Bank of the United Arab Emirates,

(d) a company whose shares are admitted to trading on a regulated market in the United Arab Emirates, including in Abu Dhabi Global Market, or

(e) a company that has demonstrated to the satisfaction of the Registrar to have adequate presence in the United Arab Emirates.

(4) For the purposes of assessing whether a company has demonstrated adequate presence in the United Arab Emirates under paragraph (3)(e), the Registrar –

(a) shall have regard to, among other things,

(i) the company's assets, turnover and employees in the United Arab Emirates,

(ii) the company's governance, policies and procedures, and

(iii) any rules made by the Board or guidance issued by the Registrar in this regard, and

(b) may require such further information and supporting documentation as it considers appropriate.

(5) The requirement for a non-exempt company incorporated in ADGM to appoint a company service provider takes effect from the effective date.

(6) Any non-exempt company incorporated in ADGM –

(a) prior to or on the date on which the Companies Regulations (Amendment No. 1) 2021 come into force, must have a company service provider in accordance with subsection (1) at the earlier of its next Commercial Licence renewal date or the end of 12 months from the effective date,

(b) after the date on which the Companies Regulations (Amendment No. 1) 2021 came into force and before the effective date, must have a company service provider in accordance with subsection (1) at, or by no later than, its first Commercial Licence renewal date, and

(c) after the effective date, must have a company service provider in accordance with subsection (1) from the date of incorporation.

(7) If the company fails to comply with subsection (1), a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(8) A person who commits the contravention referred to in subsection (7) is liable to a fine not exceeding level 7.

296B. Obligations of company service provider and non-exempt company[7]

(1) The company service provider of a non-exempt company must maintain the records that the non-exempt company is required to keep under–

(a) the following provisions of these Regulations–

(i) section 118 (register of members),

(ii) section 120 (list of members),

(iii) section 153 (register of directors),

(iv) section 156 (register of directors' residential addresses),

(v) section 215 (directors' service contracts),

(vi) section 223 (directors' indemnities),

(vii) section 292 (register of secretaries),

(viii) section 360 (records of resolutions etc),

(ix) section 642 (contracts relating to purchase of own shares),

(x) section 660 (documents relating to redemption or purchase of own shares out of capital by private company),

(xi) section 682 (register of debenture holders),

(xii) section 737 (report to members of outcome of investigation by public company into interests in its shares),

(xiii) section 740 (register of interests in shares disclosed to public company),

(xiv) section 798 (instruments creating charges),

(b) the Commercial Licensing Regulations 2015 (Conditions of Licence and Branch Registration) Rules 2021 and any licence granted thereunder, and

(c) the Beneficial Ownership and Control Regulations 2018.

(2) A company service provider of a non-exempt company –

(a) must act as a registered office provider to that company, unless a different registered office is otherwise expressly permitted by the Registrar, and

(b) is authorised to represent the non-exempt company in its dealings with the Registrar.

(2A) With the exception of sections 867 and 867A of these Regulations whereby either the non-exempt company or the company service provider may make the filing, a company service provider of a non-exempt company shall give all notices and make all filings that the non-exempt company is obliged to make to the Registrar under these

[7] Amended 23 February 2023

Regulations, the Commercial Licensing Regulations 2015 and the Beneficial Ownership and Control Regulations 2018.

(3) A non-exempt company must make available to its company service provider such documents and information as is required to enable the company service provider to comply with its obligations under this section.

(4) If a non-exempt company fails to comply with subsection (3), a contravention of these Regulations is committed by–

(a) the non-exempt company, and

(b) every officer of the non-exempt company who is in default.

(5) A person who commits the contravention referred to in subsection (4) is liable to a fine not exceeding level 6.

296C. Duty to notify Registrar of appointment and cessation of company service provider

(1) A non-exempt company must, within the period of 14 days from a person becoming or ceasing to be a company service provider of the non-exempt company, give notice to the Registrar of the change and of the date on which it occurred. A notice of a person ceasing to be a company service provider must either include details of the company's new company service provider or a statement that the company is no longer a non-exempt company.

(1A) Where a non-exempt company defaults in complying with subsection (1) by the filing deadline, the non-exempt company must pay a late filing fee up to the maximum amount prescribed in rules made by the Board.

(2) Notice of a person having become a company service provider of the non-exempt company must be accompanied by that person's consent in the prescribed form to act in that capacity.

(3) If the non-exempt company fails to comply with this section a contravention of these Regulations is committed by–

(a) the non-exempt company, and

(b) every officer of the non-exempt company who is in default.

(4) A person who commits the contravention referred to in subsection (3) is liable to a level 2 fine.

296D. Registrar's powers

(1) The Registrar may issue guidance about the operation of this Chapter.

PART 13

RESOLUTIONS AND MEETINGS

CHAPTER 1

GENERAL PROVISIONS ABOUT RESOLUTIONS

297. Resolutions

(1) A resolution of the members (or of a class of members) of a private company must be passed–

(a) as a written resolution in accordance with Chapter 2, or

(b) at a meeting of the members (to which the provisions of Chapter 3 apply).

(2) A resolution of the members (or of a class of members) of a public company must be passed at a meeting of the members (to which the provisions of Chapter 3 apply).

(3) Where a provision of these Regulations–

(a) requires a resolution of a company, or of the members (or a class of members) of a company, and

(b) does not specify what kind of resolution is required,

what is required is an ordinary resolution unless the company's articles require a higher majority (or unanimity).

(4) Nothing in this Part affects any rule of law applicable in the Abu Dhabi Global Market as to–

(a) things done otherwise than by passing a resolution,

(b) circumstances in which a resolution is or is not treated as having been passed, or

(c) cases in which a person is precluded from alleging that a resolution has not been duly passed.

298. Ordinary resolutions

(1) An ordinary resolution of the members (or of a class of members) of a company means a resolution that is passed by a simple majority.

(2) A written resolution is passed by a simple majority if it is passed by members representing a simple majority of the total voting rights of eligible members (see Chapter 2).

(3) A resolution passed at a meeting on a show of hands is passed by a simple majority if it is passed by a simple majority of the votes cast by those entitled to vote.

(4) A resolution passed on a poll taken at a meeting is passed by a simple majority if it is passed by members representing a simple majority of the total voting rights of members who (being entitled to do so) vote in person, by proxy or in advance (see section 340 (voting on a poll: votes cast in advance)) on the resolution.

(5) Anything that may be done by ordinary resolution may also be done by special resolution.

299. Special resolutions

(1) A special resolution of the members (or of a class of members) of a company means a resolution passed by a majority of not less than 75%.

(2) A written resolution is passed by a majority of not less than 75% if it is passed by members representing not less than 75% of the total voting rights of eligible members (see Chapter 2).

(3) Where a resolution of a private company is passed as a written resolution–

(a) the resolution is not a special resolution unless it stated that it was proposed as a special resolution, and

(b) if the resolution so stated, it may only be passed as a special resolution.

(4) A resolution passed at a meeting on a show of hands is passed by a majority of not less than 75% if it is passed by not less than 75% of the votes cast by those entitled to vote.

(5) A resolution passed on a poll taken at a meeting is passed by a majority of not less than 75% if it is passed by members representing not less than 75% of the total voting rights of the members who (being entitled to do so) vote in person, by proxy or in advance (see section 340 (voting on a poll: votes cast in advance)) on the resolution.

(6) Where a resolution is passed at a meeting–

(a) the resolution is not a special resolution unless the notice of the meeting included the text of the resolution and specified the intention to propose the resolution as a special resolution, and

(b) if the notice of the meeting so specified, the resolution may only be passed as a special resolution.

300. Votes: general rules

(1) On a vote on a written resolution–

(a) in the case of a company having a share capital, every member has one vote in respect of each share held by him, and

(b) in any other case, every member has one vote.

(2) On a vote on a resolution on a show of hands at a meeting, each member present in person has one vote.

(3) On a vote on a resolution on a poll taken at a meeting–

(a) in the case of a company having a share capital, every member has one vote in respect of each share held by him, and

(b) in any other case, every member has one vote.

(4) The provisions of this section have effect subject to any provision of the company's articles.

(5) Nothing in this section is to be read as restricting the effect of–

section 142 (exercise of rights where shares held on behalf of others: exercise in different ways),

section 301 (voting by proxy),

section 339 (voting on a poll),

section 340 (voting on a poll: votes cast in advance), or

section 341 (representation of corporations at meetings).

301. Voting by proxy

(1) On a vote on a resolution on a show of hands at a meeting, every proxy present who has been duly appointed by one or more members entitled to vote on the resolution has one vote.

This is subject to subsection (2).

(2) On a vote on a resolution on a show of hands at a meeting, a proxy has one vote for and one vote against the resolution if–

(a) the proxy has been duly appointed by more than one member entitled to vote on the resolution, and

(b) the proxy has been instructed by one or more of those members to vote for the resolution and by one or more other of those members to vote against it.

(3) On a poll taken at a meeting of a company all or any of the voting rights of a member may be exercised by one or more duly appointed proxies.

(4) Where a member appoints more than one proxy, subsection (3) does not authorise the exercise by the proxies taken together of more extensive voting rights than could be exercised by the member in person.

(5) Subsections (1) and (2) have effect subject to any provision of the company's articles.

302. Voting rights on poll or written resolution

In relation to a resolution required or authorised by these Regulations or any other law or regulation applicable in the Abu Dhabi Global Market, a member of a private company has the same number of votes in relation to the resolution when it is passed on a poll as the member has when it is passed as a written resolution irrespective of any provision to the contrary in that company's articles.

303. Votes of joint holders of shares

(1) In the case of joint holders of shares of a company, only the vote of the senior holder who votes (and any proxies duly authorised by him) may be counted by the company.

(2) For the purposes of this section, the senior holder of a share is determined by the order in which the names of the joint holders appear in the register of members, the senior holder being the person whose name appears first.

(3) Subsections (1) and (2) have effect subject to any provision of the company's articles.

304. Saving for provisions of articles as to determination of entitlement to vote

Nothing in this Chapter affects–

(a) any provision of a company's articles–

(i) requiring an objection to a person's entitlement to vote on a resolution to be made in accordance with the articles, and

(ii) for the determination of any such objection to be final and conclusive, or

(iii) the grounds on which such a determination may be questioned in legal proceedings.

CHAPTER 2
WRITTEN RESOLUTIONS

General provisions about written resolutions

305. Written resolutions of private companies

(1) In these Regulations a "written resolution" means a resolution of a private company proposed and passed in accordance with this Chapter.

(2) The following may not be passed as a written resolution unless the company is a sole member company:

(a) a resolution under section 158 (resolution to remove a director) removing a director before the expiration of his period in office, or

(b) a resolution under section 479 (resolution removing auditor from office) removing an auditor before expiration of his term in office.

(3) A resolution may be proposed as a written resolution–

(a) by the directors of a private company (see section 308 (circulation of written resolutions proposed by directors)), or

(b) by the members of a private company (see sections 309 (members' power to require circulation of written resolution) to 312 (application not to circulate members' statement)).

(4) References in any law or regulation applicable to the Abu Dhabi Global Market to–

(a) a resolution of a company in general meeting, or

(b) a resolution of a meeting of a class of members of the company,

have effect as if they included references to a written resolution of the members, or of a class of members, of a private company (as appropriate).

(5) A written resolution of a private company has effect as if passed (as the case maybe)–

(a) by the company in general meeting, or

(b) by a meeting of a class of members of the company,

and references in these Regulations, or any other law or regulation applicable in the Abu Dhabi Global Market to a meeting at which a resolution is passed or to members voting in favour of a resolution shall be construed accordingly.

306. Eligible members

(1) In relation to a resolution proposed as a written resolution of a private company, the eligible members are the members who would have been entitled to vote on the resolution on the circulation date of the resolution (see section 307 (circulation date)).

(2) If the persons entitled to vote on a written resolution change during the course of the day that is the circulation date of the resolution, the eligible members are the persons entitled to vote on the resolution at the time that the first copy of the resolution is sent or submitted to a member for his agreement.

307. Circulation date

References in this Part to the circulation date of a written resolution are to the date on which copies of it are sent or submitted to members in accordance with this Chapter (or if copies are sent or submitted to members on different days, to the first of those days).

308. Circulation of written resolutions proposed by directors

(1) This section applies to a resolution proposed as a written resolution by the directors of the company.

(2) The company must send or submit a copy of the resolution to every eligible member.

(3) The company must do so–

(a) by sending copies at the same time (so far as reasonably practicable) to all eligible members in hard copy form, in electronic form or by means of a website, or

(b) if it is possible to do so without undue delay, by submitting the same copy to each eligible member in turn (or different copies to each of a number of eligible members in turn),

or by sending copies to some members in accordance with subsection (3)(a) and submitting a copy or copies to other members in accordance with subsection (3)(b).

(4) The copy of the resolution must be accompanied by a statement informing the member–

(a) how to signify agreement to the resolution (see section 313 (procedure for signifying agreement to written resolution), and

(b) as to the date by which the resolution must be passed if it is not to lapse (see section 314 (period for agreeing to written resolution)).

(5) In the event of default in complying with this section, a contravention of these Regulations is committed by every officer of the company who is in default.

(6) A person who commits the contravention referred to in subsection (5) shall be liable to a level 2 fine.

(7) The validity of the resolution, if passed, is not affected by a failure to comply with this section.

309. Members' power to require circulation of written resolution

(1) The members of a private company may require the company to circulate a resolution that may properly be moved and is proposed to be moved as a written resolution.

(2) Any resolution may properly be moved as a written resolution unless–

(a) it would, if passed, be ineffective (whether by reason of inconsistency with any law or regulation applicable to the Abu Dhabi Global Market or the company's constitution or otherwise),

(b) it is defamatory of any person, or

(c) it is frivolous or vexatious.

(3) Where the members require a company to circulate a resolution they may require the company to circulate with it a statement of not more than 1,000 words on the subject matter of the resolution.

(4) A company is required to circulate the resolution and any accompanying statement once it has received requests that it do so from members representing not less than the requisite percentage of the total voting rights of all members entitled to vote on the resolution.

(5) The "requisite percentage" is 5% or such lower percentage as is specified for this purpose in the company's articles.

(6) A request–

(a) may be in hard copy form or in electronic form,

(b) must identify the resolution and any accompanying statement, and

(c) must be authenticated by the person or persons making it.

310. Circulation of written resolutions proposed by members

(1) A company that is required under section 309 (members' power to require circulation of written resolution) to circulate a resolution must send or submit to every eligible member–

(a) a copy of the resolution, and

(b) a copy of any accompanying statement (if any).

This is subject to section 311(2) (deposit or tender of sum in respect of expenses of circulation) and section 312 (application not to circulate members' statement).

(2) The company must do so–

(a) by sending copies at the same time (so far as reasonably practicable) to all eligible members in hard copy form, in electronic form or by means of a website, or

(b) if it is possible to do so without undue delay, by submitting the same copy to each eligible member in turn (or different copies to each of a number of eligible members in turn),

or by sending copies to some members in accordance with subsection (2)(a) and submitting a copy or copies to other members in accordance with subsection (2)(b).

(3) The company must send or submit the copies (or, if copies are sent or submitted to members on different days, the first of those copies) not more than 21 days after it becomes subject to the requirement under section 309 (members' power to require circulation of written resolution) to circulate the resolution.

(4) The copy of the resolution must be accompanied by guidance as to–

(a) how to signify agreement to the resolution (see section 313 (procedure for signifying agreement to written resolution)), and

(b) the date by which the resolution must be passed if it is not to lapse (see section 314 (period for agreeing to written resolution)).

(5) In the event of default in complying with this section, a contravention of these Regulations is committed by every officer of the company who is in default.

(6) A person who commits the contravention referred to in subsection (5) shall be liable to a level 2 fine.

(7) The validity of the resolution, if passed, is not affected by a failure to comply with this section.

311. Expenses of circulation

(1) The expenses of the company in complying with section 310 (circulation of written resolution proposed by members) must be paid by the members who requested the circulation of the resolution unless the company resolves otherwise.

(2) Unless the company has previously so resolved, it is not bound to comply with that section unless there is deposited with or tendered to it a sum reasonably sufficient to meet its expenses in doing so.

312. Application not to circulate members' statement

(1) A company is not required to circulate a members' statement under section 310 (circulation of written resolution proposed by members) if, on an application by the company or another person who claims to be aggrieved, the Court is satisfied that the rights conferred by section 309 (members' power to require circulation of written resolution) and that section are being abused.

(2) The Court may order the members who requested the circulation of the statement to pay the whole or part of the company's costs on such an application, even if they are not parties to the application.

313. Procedure for signifying agreement to written resolution

(1) A member signifies his agreement to a proposed written resolution when the company receives from him (or from someone acting on his behalf) an authenticated document–

(a) identifying the resolution to which it relates, and

(b) indicating his agreement to the resolution.

(2) The document must be sent to the company in hard copy form or in electronic form.

(3) A member's agreement to a written resolution, once signified, may not be revoked.

(4) A written resolution is passed when the required majority of eligible members have signified their agreement to it.

314. Period for agreeing to written resolution

(1) A proposed written resolution lapses if it is not passed before the end of–

(a) the period specified for this purpose in the company's articles, or

(b) if none is specified, the period of one month beginning with the circulation date.

(2) The agreement of a member to a written resolution is ineffective if signified after the expiry of that period.

315. Sending documents relating to written resolutions by electronic means

(a) Where a company has given an electronic address in any document containing or accompanying a proposed written resolution, it is deemed to have agreed that any document or information relating to that resolution may be sent by electronic means to that address (subject to any conditions or limitations specified in the document).

(b) In this section "electronic address" means any address or number used for the purposes of sending or receiving documents or information by electronic means.

316. Publication of written resolution on website

(1) This section applies where a company sends–

(a) a written resolution, or

(b) a statement relating to a written resolution,

to a person by means of a website.

(2) The resolution or statement is not validly sent for the purposes of this Chapter unless the resolution is available on the website throughout the period beginning with the circulation date and ending on the date on which the resolution lapses under section 314 (period for agreeing to written resolution).

317. Relationship between this Chapter and provisions of company's articles

A provision of the articles of a private company is void in so far as it would have the effect that a resolution that is required by or otherwise provided for in these Regulations or any other law or regulation applicable in the Abu Dhabi Global Market could not be proposed and passed as a written resolution.

CHAPTER 3

General provisions about resolutions at meetings

318. Resolutions at general meetings

A resolution of the members of a company is validly passed at a general meeting if–

(a) notice of the meeting and of the resolution is given, and

(b) the meeting is held and conducted,

in accordance with the provisions of this Chapter and the company's articles.

319. Directors' power to call general meetings

The directors of a company may call a general meeting of the company.

320. Members' power to require directors to call general meeting

(1) The members of a company may require the directors to call a general meeting of the company.

(2) The directors are required to call a general meeting once the company has received requests to do so from–

(a) members representing at least 5% of such of the paid-up capital of the company as carries the right of voting at general meetings of the company (excluding any paid-up capital held as treasury shares), or

(b) in the case of a company not having a share capital, members who represent at least 5% of the total voting rights of all the members having a right to vote at general meetings.

(3) A request–

(a) must state the general nature of the business to be dealt with at the meeting, and

(b) may include the text of a resolution that may properly be moved and is intended to be moved at the meeting.

(4) A resolution may properly be moved at a meeting unless–

(a) it would, if passed, be ineffective (whether by reason of inconsistency with any law or regulation applicable to the Abu Dhabi Global Market or the company's constitution or otherwise),

(b) it is defamatory of any person, or

(c) it is frivolous or vexatious.

(5) A request–

(a) may be in hard copy form or in electronic form, and

(b) must be authenticated by the person or persons making it.

321. Directors' duty to call meetings required by members

(1) Directors required under section 320 (members' power to require directors to call general meeting) to call a general meeting of the company must call a meeting–

(a) within 21 days from the date on which they become subject to the requirement, and

(b) to be held on a date not more than one month after the date of the notice convening the meeting.

(2) If the requests received by the company identify a resolution intended to be moved at the meeting, the notice of the meeting must include notice of the resolution.

(3) The business that may be dealt with at the meeting includes a resolution of which notice is given in accordance with this section.

(4) If the resolution is to be proposed as a special resolution, the directors are treated as not having duly called the meeting if they do not give the required notice of the resolution in accordance with section 299 (special resolutions).

322. Power of members to call meeting at company's expense

(1) If the directors–

(a) are required under section 320 (members' power to require directors to call general meeting) to call a meeting, and

(b) do not do so in accordance with section 321 (directors' duty to call meetings required by members),

the members who requested the meeting, or any of them representing more than one half of the total voting rights of all of them, may themselves call a general meeting.

(2) Where the requests received by the company included the text of a resolution intended to be moved at the meeting, the notice of the meeting must include notice of the resolution.

(3) The meeting must be called for a date not more than three months after the date on which the directors become subject to the requirement to call a meeting.

(4) The meeting must be called in the same manner, as nearly as possible, as that in which meetings are required to be called by directors of the company.

(5) The business which may be dealt with at the meeting includes a resolution of which notice is given in accordance with this section.

(6) Any reasonable expenses incurred by the members requesting the meeting by reason of the failure of the directors duly to call a meeting must be reimbursed by the company.

(7) Any sum so reimbursed shall be retained by the company out of any sums due or to become due from the company by way of fees or other remuneration in respect of the services of such of the directors as were in default.

323. Power of Court to order meeting

(1) This section applies if for any reason it is impracticable–

(a) to call a meeting of a company in any manner in which meetings of that company may be called, or

(b) to conduct the meeting in the manner prescribed by the company's articles or these Regulations.

(2) The Court may, either of its own motion or on the application–

(a) of a director of the company, or

(b) of a member of the company who would be entitled to vote at the meeting,

order a meeting to be called, held and conducted in any manner the Court thinks fit.

(3) Where such an order is made, the Court may give such ancillary or consequential directions as it thinks expedient.

(4) Such directions may include a direction that one member of the company present at the meeting be deemed to constitute a quorum.

(5) A meeting called, held and conducted in accordance with an order under this section is deemed for all purposes to be a meeting of the company duly called, held and conducted.

324. Notice required of general meeting

(1) A general meeting of a private company (other than an adjourned meeting) must be called by notice of at least 14 days.

(2) A general meeting of a public company (other than an adjourned meeting) must be called by notice of–

(a) in the case of an annual general meeting, at least 21 days, and

(b) in any other case, at least 14 days.

(3) The company's articles may require a longer period of notice than that specified in subsection (1) or (2).

(4) A general meeting may be called by shorter notice than that otherwise required if shorter notice is agreed by the members.

(5) The shorter notice must be agreed to by a majority in number of the members having a right to attend and vote at the meeting, being a majority who together represent not less than the requisite percentage of the total voting rights at that meeting of all the members.

(6) The requisite percentage is–

(a) in the case of a private company, 90% or such higher percentage (not exceeding 95%) as may be specified in the company's articles,

(b) in the case of a public company, 95%.

(7) Subsections (5) and (6) do not apply to an annual general meeting of a public company (see instead section 356(2) (public companies: notice of AGM)).

325. Manner in which notice to be given

Notice of a general meeting of a company must be given–

(a) in hard copy form,

(b) in electronic form, or

(c) by means of a website (see section 326 (publication of notice of meeting on website)),

or partly by one such means and partly by another.

326. Publication of notice of meeting on website

(1) Notice of a meeting is not validly given by a company by means of a website unless it is given in accordance with this section.

(2) When the company notifies a member of the presence of the notice on the website the notification must–

(a) state that it concerns a notice of a company meeting,

(b) specify the place, date and time of the meeting, and

(c) in the case of a public company, state whether the meeting will be an annual general meeting.

(3) The notice must be available on the website throughout the period beginning with the date of that notification and ending with the conclusion of the meeting.

327. Persons entitled to receive notice of meetings

(1) Notice of a general meeting of a company must be sent to–

(a) every member of the company, and

(b) every director.

(2) In subsection (1), the reference to members includes any person who is entitled to a share in consequence of the death or bankruptcy of a member, if the company has been notified of their entitlement.

(3) This section has effect subject to–

(a) any other law or regulation applicable in the Abu Dhabi Global Market, and

(b) any provision of the company's articles.

328. Contents of notices of meetings

(1) Notice of a general meeting of a company must state–

(a) the time and date of the meeting, and

(b) the place of the meeting.

(2) Notice of a general meeting of a company must state the general nature of the business to be dealt with at the meeting.

This subsection has effect subject to any provision of the company's articles.

329. Resolution requiring special notice

(1) Where by any provision of these Regulations special notice is required of a resolution, the resolution is not effective unless notice of the intention to move it has been given to the company at least one month before the meeting at which it is moved.

(2) The company must, where practicable, give its members notice of any such resolution in the same manner and at the same time as it gives notice of the meeting.

(3) Where that is not practicable, the company must give its members notice at least 14 days before the meeting–

(a) by advertisement in a newspaper having an appropriate circulation, or

(b) in any other manner allowed by the company's articles.

(4) If, after notice of the intention to move such a resolution has been given to the company, a meeting is called for a date one month or less after the notice has been given, the notice is deemed to have been properly given, though not given within the time required.

330. Accidental failure to give notice of resolution or meeting

(1) Where a company gives notice of–

(a) a general meeting, or

(b) a resolution intended to be moved at a general meeting,

any accidental failure to give notice to one or more persons shall be disregarded for the purpose of determining whether notice of the meeting or resolution (as the case may be) is duly given.

(2) Except in relation to notice given under–

(a) section 321 (directors' duty to call meetings required by members),

(b) section 322 (power of members to call meeting at company's expense), or

(c) section 358 (public companies: company's duty to circulate members' resolutions for AGMs),

subsection (1) has effect subject to any provision of the company's articles.

331. Members' power to require circulation of statements

(1) The members of a company may require the company to circulate, to members of the company entitled to receive notice of a general meeting, a statement of not more than 1,000 words with respect to–

(a) a matter referred to in a proposed resolution to be dealt with at that meeting, or

(b) other business to be dealt with at that meeting.

(2) A company is required to circulate a statement once it has received requests to do so from–

(a) members representing at least 5% of the total voting rights of all the members who have a relevant right to vote (excluding any voting rights attached to any shares in the company held as treasury shares), or

(b) at least 100 members who have a relevant right to vote.

See also section 143 (exercise of rights where shares held on behalf of others: members' requests).

(3) In subsection (2), a "relevant right to vote" means–

(a) in relation to a statement with respect to a matter referred to in a proposed resolution, a right to vote on that resolution at the meeting to which the requests relate, and

(b) in relation to any other statement, a right to vote at the meeting to which the requests relate.

(4) A request–

(a) may be in hard copy form or in electronic form,

(b) must identify the statement to be circulated,

(c) must be authenticated by the person or persons making it, and

(d) must be received by the company at least one week before the meeting to which it relates.

332. Company's duty to circulate members' statement

(1) A company that is required under section 331 (members' power to require circulation of statements) to circulate a statement must send a copy of it to each member of the company entitled to receive notice of the meeting–

(a) in the same manner as the notice of the meeting, and

(b) at the same time as, or as soon as reasonably practicable after, it gives notice of the meeting.

(2) Subsection (1) has effect subject to section 333(2) (deposit or tender of sum in respect of expenses of circulation) and section 334 (application not to circulate members' statement).

(3) In the event of default in complying with this section, a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 2 fine.

333. Expenses of circulating members' statement

(1) The expenses of the company in complying with section 331 (members' power to require circulation of statements) need not be paid by the members who requested the circulation of the statement if–

(a) the meeting to which the requests relate is an annual general meeting of a public company, and

(b) requests sufficient to require the company to circulate the statement are received before the end of the financial year preceding the meeting.

(2) Otherwise–

(a) the expenses of the company in complying with that section must be paid by the members who requested the circulation of the statement unless the company resolves otherwise, and

(b) unless the company has previously so resolved, it is not bound to comply with that section unless there is deposited with or tendered to it, not later than one week before the meeting, a sum reasonably sufficient to meet its expenses in doing so.

334. Application not to circulate members' statement

(1) A company is not required to circulate a members' statement under section 332 (company's duty to circulate members' statement) if, on an application by the company or another person who claims to be aggrieved, the Court is satisfied that the rights conferred by section 331 (members' power to require circulation of statements) and that section are being abused.

(2) The Court may order the members who requested the circulation of the statement to pay the whole or part of the company's costs on such an application, even if they are not parties to the application.

335. Quorum at meetings

(1) In the case of a company limited by shares or guarantee and having only one member, one qualifying person present at a meeting is a quorum.

(2) In any other case, subject to the provisions of the company's articles, two (2) qualifying persons present at a meeting are a quorum, unless–

(a) each is a qualifying person only because he is authorised under section 341 (representation of corporations at meetings) to act as the representative of a corporation in relation to the meeting, and they are representatives of the same corporation, or

(b) each is a qualifying person only because he is appointed as proxy of a member in relation to the meeting, and they are proxies of the same member.

(3) For the purposes of this section a "qualifying person" means–

(a) an individual who is a member of the company,

(b) a person authorised under section 341 (representation of corporations at meetings) to act as the representative of a corporation in relation to the meeting, or

(c) a person appointed as proxy of a member in relation to the meeting.

336. Chairman of meeting

(1) A member may be elected to be the chairman of a general meeting by a resolution of the company passed at the meeting.

(2) Subsection (1) is subject to any provision of the company's articles that states who may or may not be chairman.

337. Declaration by chairman on a show of hands

(1) On a vote on a resolution at a meeting on a show of hands, a declaration by the chairman that the resolution–

(a) has or has not been passed, or

(b) passed with a particular majority,

is conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(2) An entry in respect of such a declaration in minutes of the meeting recorded in accordance with section 360 (records of resolutions and meetings etc) is also conclusive evidence of that fact without such proof.

(3) This section does not have effect if a poll is demanded in respect of the resolution (and the demand is not subsequently withdrawn).

338. Right to demand a poll

(1) A provision of a company's articles is void in so far as it would have the effect of excluding the right to demand a poll at a general meeting on any question other than–

(a) the election of the chairman of the meeting, or

(b) the adjournment of the meeting.

(2) A provision of a company's articles is void in so far as it would have the effect of making ineffective a demand for a poll on any such question which is made–

(a) by not less than five (5) members having the right to vote on the resolution, or

(b) by a member or members representing not less than 10% of the total voting rights of all the members having the right to vote on the resolution (excluding any voting rights attached to any shares in the company held as treasury shares), or

(c) by a member or members holding shares in the company conferring a right to vote on the resolution, being shares on which an aggregate sum has been paid up equal to not less than 10% of the total sum paid up on all the shares conferring that right (excluding shares in the company conferring a right to vote on the resolution which are held as treasury shares).

339. Voting on a poll

On a poll taken at a general meeting of a company, a member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.

340. Voting on a poll: votes cast in advance

(1) A company's articles may contain provision to the effect that on a vote on a resolution on a poll taken at a meeting, the votes may include votes cast in advance.

(2) Any such provision in relation to voting at a general meeting may be made subject only to such requirements and restrictions as are–

(a) necessary to ensure the identification of the person voting, and

(b) proportionate to the achievement of that objective.

Nothing in this subsection affects any power of a company to require reasonable evidence of the entitlement of any person who is not a member to vote.

(3) Any provision of a company's articles is void in so far as it would have the effect of requiring any document casting a vote in advance to be received by the company or another person earlier than the following time–

(a) in the case of a poll taken more than 48 hours after it was demanded, 24 hours before the time appointed for the taking of the poll, and

(b) in the case of any other poll, 48 hours before the time for holding the meeting or adjourned meeting.

(4) In calculating the periods mentioned in subsection (3), no account is to be taken of any part of a day that is not a working day.

341. Representation of corporations at meetings

(1) If a corporation (whether or not a company within the meaning of these Regulations) is a member of a company, it may by resolution of its directors or other governing body authorise a person or persons to act as its representative or representatives at any meeting of the company.

(2) A person authorised by a corporation is entitled to exercise (on behalf of the corporation) the same powers as the corporation could exercise if it were an individual member of the company.

(3) Where a corporation authorises more than one person, this subsection is subject to subsections (3) and (4).

(4) On a vote on a resolution on a show of hands at a meeting of the company, each authorised person has the same voting rights as the corporation would be entitled to.

(5) Where subsection (3) does not apply and more than one authorised person purports to exercise a power under subsection (2) in respect of the same shares–

(a) if they purport to exercise the power in the same way as each other, the power is treated as exercised in that way, and

(b) if they do not purport to exercise the power in the same way as each other, the power is treated as not exercised.

342. Rights to appoint proxies

(1) A member of a company is entitled to appoint another person as his proxy to exercise all or any of his rights to attend and to speak and vote at a meeting of the company.

(2) In the case of a company having a share capital, a member may appoint more than one proxy in relation to a meeting, provided that each proxy is appointed to exercise the rights attached to a different share or shares held by him.

343. Obligation of proxy to vote in accordance with instructions

A proxy must vote in accordance with any instructions given by the member by whom the proxy is appointed.

344. Notice of meeting to contain statement of rights

(1) In every notice calling a meeting of a company there must appear, with reasonable prominence, a statement informing the member of–

(a) his rights under section 342 (rights to appoint proxies), and

(b) any more extensive rights conferred by the company's articles to appoint more than one proxy.

(2) Failure to comply with this section does not affect the validity of the meeting or of anything done at the meeting.

(3) If this section is not complied with as respects any meeting, a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 2 fine.

345. Company-sponsored invitations to appoint proxies

(1) If for the purposes of a meeting there are issued at the company's expense invitations to members to appoint as proxy a specified person or a number of specified persons, the invitations must be issued to all members entitled to vote at the meeting.

(2) Subsection (1) is not contravened if–

(a) there is issued to a member at his request a form of appointment naming the proxy or a list of persons willing to act as proxy, and

(b) the form or list is available on request to all members entitled to vote at the meeting.

(3) If subsection (1) is contravened as respects a meeting, a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 1 fine.

346. Notice required of appointment of proxy etc

(1) The following provisions apply as regards –

(a) the appointment of a proxy, and

(b) any document necessary to show the validity of, or otherwise relating to, the appointment of a proxy.

(2) Any provision of the company's articles is void in so far as it would have the effect of requiring any such appointment or document to be received by the company or another person earlier than the following time–

(a) in the case of a meeting or adjourned meeting, 48 hours before the time for holding the meeting or adjourned meeting,

(b) in the case of a poll taken more than 48 hours after it was demanded, 24 hours before the time appointed for the taking of the poll,

(c) in the case of a poll taken not more than 48 hours after it was demanded, the time at which it was demanded.

(3) In calculating the periods mentioned in subsection (2) no account shall be taken of any part of a day that is not a working day.

347. Chairing meetings

(1) A proxy may be elected to be the chairman of a general meeting by a resolution of the company passed at the meeting.

(2) Subsection (1) is subject to any provision of the company's articles that states who may or who may not be chairman.

348. Right of proxy to demand a poll

(1) The appointment of a proxy to vote on a matter at a meeting of a company authorises the proxy to demand, or join in demanding, a poll on that matter.

(2) In applying the provisions of section 338(2) (requirements for effective demand), a demand by a proxy counts–

(a) for the purposes of subsection (2)(a), as a demand by the member,

(b) for the purposes of subsection (2)(b), as a demand by a member representing the voting rights that the proxy is authorised to exercise,

(c) for the purposes of subsection (2)(c), as a demand by a member holding the shares to which those rights are attached.

349. Notice required of termination of proxy's authority

(1) The following provisions apply as regards notice that the authority of a person to act as proxy is terminated ("notice of termination").

(2) The termination of the authority of a person to act as proxy does not affect–

(a) whether he counts in deciding whether there is a quorum at a meeting,

(b) the validity of anything he does as chairman of a meeting, or

(c) the validity of a poll demanded by him at a meeting,

unless the company receives notice of the termination before the commencement of the meeting.

(3) The termination of the authority of a person to act as proxy does not affect the validity of a vote given by that person unless the company receives notice of the termination–

(a) before the commencement of the meeting or adjourned meeting at which the vote is given, or

(b) in the case of a poll taken more than 48 hours after it is demanded, before the time appointed for taking the poll.

(4) If the company's articles require or permit members to give notice of termination to a person other than the company, the references above to the company receiving notice have effect as if they were or (as the case may be) included a reference to that person.

(5) Subsections (2) and (3) have effect subject to any provision of the company's articles which has the effect of requiring notice of termination to be received by the company or another person at a time earlier than that specified in those subsections.

This is subject to subsection (6).

(6) Any provision of the company's articles is void in so far as it would have the effect of requiring notice of termination to be received by the company or another person earlier than the following time–

(a) in the case of a meeting or adjourned meeting, 48 hours before the time for holding the meeting or adjourned meeting,

(b) in the case of a poll taken more than 48 hours after it was demanded, 24 hours before the time appointed for the taking of the poll,

(c) in the case of a poll taken not more than 48 hours after it was demanded, the time at which it was demanded.

(7) In calculating the periods mentioned in subsections (3)(b) and (6) no account shall be taken of any part of a day that is not a working day.

350. Saving for more extensive rights conferred by articles

Nothing in sections 342 (rights to appoint proxies) to 349 (notice required of termination of proxy's authority) prevents a company's articles from conferring more extensive rights on members or proxies than are conferred by those sections.

351. Resolution passed at adjourned meeting

Where a resolution is passed at an adjourned meeting of a company, the resolution is for all purposes to be treated as having been passed on the date on which it was in fact passed, and is not to be deemed passed on any earlier date.

352. Sending documents relating to meetings etc in electronic form

(1) Where a company has given an electronic address in a notice calling a meeting, it is deemed to have agreed that any document or information relating to proceedings at the meeting may be sent by electronic means to that address (subject to any conditions or limitations specified in the notice).

(2) Where a company has given an electronic address–

(a) in an instrument of proxy sent out by the company in relation to the meeting, or

(b) in an invitation to appoint a proxy issued by the company in relation to the meeting,

it is deemed to have agreed that any document or information relating to proxies for that meeting may be sent by electronic means to that address (subject to any conditions or limitations specified in the notice).

(3) In subsection (2), documents relating to proxies include–

(a) the appointment of a proxy in relation to a meeting,

(b) any document necessary to show the validity of, or otherwise relating to, the appointment of a proxy, and

(c) notice of the termination of the authority of a proxy.

(4) In this section "electronic address" means any address or number used for the purposes of sending or receiving documents or information by electronic means.

353. Application to class meetings

(1) The provisions of this Chapter apply (with necessary modifications) in relation to a meeting of holders of a class of shares as they apply in relation to a general meeting.

This is subject to subsections (2) to (3).

(2) The following provisions of this Chapter do not apply in relation to a meeting of holders of a class of shares–

(a) sections 320 (members' power to require directors to call general meeting) to 322 (power of members to call meeting at company's expense), and

(b) section 323 (power of Court to order meeting).

(3) The following provisions (in addition to those mentioned in subsection (2)) do not apply in relation to a meeting in connection with the variation of rights attached to a class of shares (a "variation of class rights meeting")–

(a) section 335 (quorum at meetings), and

(b) section 338 (right to demand a poll).

(4) The quorum for a variation of class rights meeting is–

(a) for a meeting other than an adjourned meeting, two persons present holding at least one-third in number of the issued shares of the class in question (excluding any shares of that class held as treasury shares),

(b) for an adjourned meeting, one person present holding shares of the class in question.

(5) For the purposes of subsection (4), where a person is present by proxy or proxies, he is treated as holding only the shares in respect of which those proxies are authorised to exercise voting rights.

(6) At a variation of class rights meeting, any holder of shares of the class in question present may demand a poll.

(7) For the purposes of this section–

(a) any amendment of a provision contained in a company's articles for the variation of the rights attached to a class of shares, or the insertion of any such provision into the articles, is itself to be treated as a variation of those rights, and

(b) references to the variation of rights attached to a class of shares include references to their abrogation.

354. Application to class meetings: companies without a share capital

(1) The provisions of this Chapter apply (with necessary modifications) in relation to a meeting of a class of members of a company without a share capital as they apply in relation to a general meeting.

This is subject to subsections (2) and (3).

(2) The following provisions of this Chapter do not apply in relation to a meeting of a class of members–

(a) sections 320 (members' power to require directors to call general meeting) to 322 (power of members to call meeting at company's expense), and

(b) section 323 (power of Court to order meeting).

(3) The following provisions (in addition to those mentioned in subsection (2)) do not apply in relation to a meeting in connection with the variation of the rights of a class of members (a "variation of class rights meeting")–

(a) section 335 (quorum at meetings), and

(b) section 338 (right to demand a poll).

(4) The quorum for a variation of class rights meeting is–

(a) for a meeting other than an adjourned meeting, two (2) members of the class present (in person or by proxy) who together represent at least one-third of the voting rights of the class, and

(b) for an adjourned meeting, one (1) member of the class present (in person or by proxy).

(5) At a variation of class rights meeting, any member present (in person or by proxy) may demand a poll.

(6) For the purposes of this section–

(a) any amendment of a provision contained in a company's articles for the variation of the rights of a class of members, or the insertion of any such provision into the articles, is itself to be treated as a variation of those rights, and

(b) references to the variation of rights of a class of members include references to their abrogation.

355. Public companies: annual general meeting

(1) Every public company must hold a general meeting as its annual general meeting in each period of 6 months beginning with the day following its accounting reference date (in addition to any other meetings held during that period).

(2) A company that fails to comply with subsection (1) as a result of giving notice under section 381 (alteration of accounting reference date)–

(a) specifying a new accounting reference date, and

(b) stating that the current accounting reference period or the previous accounting reference period is to be shortened,

shall be treated as if it had complied with subsection (1) if it holds a general meeting as its annual general meeting within three (3) months of giving that notice.

(3) If a company fails to comply with subsection (1), a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 3 fine.

356. Public companies: notice of AGM

(1) A notice calling an annual general meeting of a public company must state that the meeting is an annual general meeting.

(2) An annual general meeting of a public company may be called by shorter notice than that required by section 324(2) (notice required of general meeting) or by the company's articles (as the case may be), if all the members entitled to attend and vote at the meeting agree to the shorter notice.

357. Public companies: members' power to require circulation of resolutions for AGMs

(1) The members of a public company may require the company to give, to members of the company entitled to receive notice of the next annual general meeting, notice of a resolution which may properly be moved and is intended to be moved at that meeting.

(2) A resolution may properly be moved at an annual general meeting unless–

(a) it would, if passed, be ineffective (whether by reason of inconsistency with any law or regulation applicable to the Abu Dhabi Global Market or the company's constitution or otherwise),

(b) it is defamatory of any person, or

(c) it is frivolous or vexatious.

(3) A company is required to give notice of a resolution once it has received requests that it do so from–

(a) members representing at least 5% of the total voting rights of all the members who have a right to vote on the resolution at the annual general meeting to which the requests relate (excluding any voting rights attached to any shares in the company held as treasury shares), or

(b) at least 100 members who have a right to vote on the resolution at the annual general meeting to which the requests relate.

See also section 143 (exercise of rights where shares held on behalf of others: members' requests).

(4) A request–

(a) may be in hard copy form or in electronic form,

(b) must identify the resolution of which notice is to be given,

(c) must be authenticated by the person or persons making it, and

(d) must be received by the company not later than–

(i) 6 weeks before the annual general meeting to which the requests relate, or

(ii) if later, the time at which notice is given of that meeting.

358. Public companies: company's duty to circulate members' resolutions for AGMs

(1) A company that is required under section 357 (members' power to require circulation of resolutions for AGMs) to give notice of a resolution must send a copy of it to each member of the company entitled to receive notice of the annual general meeting–

(a) in the same manner as notice of the meeting, and

(b) at the same time as, or as soon as reasonably practicable after, it gives notice of the meeting.

(2) Subsection (1) has effect subject to section 359(2) (deposit or tender of sum in respect of expenses of circulation).

(3) The business which may be dealt with at an annual general meeting includes a resolution of which notice is given in accordance with this section.

(4) In the event of default in complying with this section, a contravention of these Regulations is committed by every officer of the company who is in default.

(5) A person who commits the contravention referred to in subsection (4) shall be liable to a fine of up to level 4.

359. Public companies: expenses of circulating members' resolutions for AGM

(1) The expenses of the company in complying with section 358 (company's duty to circulate members' resolutions for AGMs) need not be paid by the members who requested the circulation of the resolution if requests sufficient to require the company to circulate it are received before the end of the financial year preceding the meeting.

(2) Otherwise–

(a) the expenses of the company in complying with that section must be paid by the members who requested the circulation of the resolution unless the company resolves otherwise, and

(b) unless the company has previously so resolved, it is not bound to comply with that section unless there is deposited with or tendered to it, not later than–

(i) six weeks before the annual general meeting to which the requests relate, or

(ii) if later, the time at which notice is given of that meeting,

a sum reasonably sufficient to meet its expenses in complying with that section.

CHAPTER 4

RECORDS OF RESOLUTIONS AND MEETINGS

360. Records of resolutions and meetings etc

(1) Every company must keep records comprising–

(a) copies of all resolutions of members passed otherwise than at general meetings,

(b) minutes of all proceedings of general meetings, and

(c) details provided to the company in accordance with section 362 (records of decisions by sole member).

(2) The records must be kept for at least ten years from the date of the resolution, meeting or decision (as appropriate).

(3) If a company fails to comply with this section, a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 1 fine.

361. Records as evidence of resolutions etc

(1) This section applies to the records kept in accordance with section 360 (records of resolutions and meetings etc).

(2) The record of a resolution passed otherwise than at a general meeting, if purporting to be signed by a director of the company or by the company secretary, is evidence of the passing of the resolution.

(3) Where there is a record of a written resolution of a private company, the requirements of these Regulations with respect to the passing of the resolution are deemed to be complied with unless the contrary is proved.

(4) The minutes of proceedings of a general meeting, if purporting to be signed by the chairman of that meeting or by the chairman of the next general meeting, are evidence of the proceedings at the meeting.

(5) Where there is a record of proceedings of a general meeting of a company, then until the contrary is proved–

(a) the meeting is deemed duly held and convened,

(b) all proceedings at the meeting are deemed to have duly taken place, and

(c) all appointments at the meeting are deemed valid.

362. Records of decisions by sole member

(1) This section applies to a company limited by shares or by guarantee that has only one member.

(2) Where the member takes any decision that–

(a) may be taken by the company in general meeting, and

(b) has effect as if agreed by the company in general meeting,

he must (unless that decision is taken by way of a written resolution) provide the company with details of that decision.

(3) If a person fails to comply with this section he commits a contravention of these Regulations.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a fine of up to level 4.

(5) Failure to comply with this section does not affect the validity of any decision referred to in subsection (2).

363. Inspection of records of resolutions and meetings

(1) The records referred to in section 360 (records of resolutions and meetings etc) relating to the previous ten years must be kept available for inspection–

(a) at the company's registered office, or

(b) at a place specified in rules made by the Board under section 996 (rules about where certain company records to be kept available for inspection).

(2) The company must give notice to the Registrar–

(a) of the place at which the records are kept available for inspection, and

(b) of any change in that place,

unless they have at all times been kept at the company's registered office.

(3) The records must be open to the inspection of any member of the company without charge.

(4) Any member may require a copy of any of the records of a public or non-restricted scope company on payment of such fee as may be prescribed.

(5) If default is made in complying with subsection (1) or if an inspection required under subsection (3) is refused, or a copy requested under subsection (4) is not sent, a contravention of these Regulations is committed by every officer of the company who is in default.

(6) A person who commits the contravention referred to in subsection (5) shall be liable to a level 1 fine.

(7) If default is made for 14 days in complying with subsection (2) a contravention of these Regulations is committed by every officer of the company who is in default.

(8) A person who commits the contravention referred to in subsection (7) shall be liable to a level 2 fine.

(9) In a case in which an inspection required under subsection (3) is refused or a copy requested under subsection (4) is not sent, the Court may by order compel an immediate

inspection of the records or direct that the copies required be sent to the persons who requested them.

364. Records of resolutions and meetings of class of members

The provisions of this Chapter apply (with necessary modifications) in relation to resolutions and meetings of–

(a) holders of a class of shares, and

(b) in the case of a company without a share capital, a class of members,

as they apply in relation to resolutions of members generally and to general meetings.

CHAPTER 5

SUPPLEMENTARY PROVISIONS

365. Computation of periods of notice etc: clear day rule

(1) This section applies for the purposes of the following provisions of this Part–

(a) sections 324(1) and 324(2) (notice required of general meeting),

(b) sections 329(1) and 329(3) (resolution requiring special notice),

(c) section 331(4)(d) (request to circulate members' statement),

(d) section 333(2)(b) (expenses of circulating statement to be deposited or tendered before meeting),

(e) section 357(4)(d)(i) (request to circulate member's resolution at AGM of public company), and

(f) section 359(2)(b)(i) (expenses of circulating statement to be deposited or tendered before meeting).

(2) Any reference in those provisions to a period of notice, or to a period before a meeting by which a request must be received or sum deposited or tendered, is to a period of the specified length excluding–

(a) the day of the meeting, and

(b) the day on which the notice is given, the request received or the sum deposited or tendered.

366. Electronic meetings and voting

Nothing in this Part is to be taken to preclude the holding and conducting of a meeting in such a way that persons who are not present together at the same place may by electronic means attend and speak and vote at it.

(1) The use of electronic means for the purpose of enabling members to participate in a general meeting may be made subject only to such requirements and restrictions as are–

(a) necessary to ensure the identification of those taking part and the security of the electronic communication, and

(b) proportionate to the achievement of those objectives.

(2) Nothing in subsection (2) affects any power of a company to require reasonable evidence of the entitlement of any person who is not a member to participate in the meeting.

PART 14

ACCOUNTS AND REPORTS

CHAPTER 1

INTRODUCTION

General

367. Scheme of this Part

(1) The requirements of this Part as to accounts and reports apply in relation to each financial year of a company.

(2) In certain respects different provisions apply to different kinds of company.

(3) The main distinction for this purpose is between companies subject to the small companies regime (see section 368 (companies subject to the small companies regime)) and companies that are not subject to that regime.

(4) In this Part, where provisions do not apply to all kinds of company–

(a) provisions applying to companies subject to the small companies regime appear before the provisions applying to other companies, and

(b) provisions applying to private companies appear before the provisions applying to public companies.

(5) Restricted scope companies shall be subject only to the following Chapters of this Part:

(a) Chapter 2 (Accounting records),

(b) Chapter 3 (A company's financial year),

(c) Chapter 4 (Annual accounts),

(d) Chapter 6 (Publication of accounts and reports),

(e) Chapter 8 (Filing of accounts and reports), to the extent required under section 415(3) (duty to file reports and accounts with the Registrar),

(f) Chapter 9 (Revision of defective accounts and reports), and

(g) Chapter 11 (Supplementary provisions).

368. Companies subject to the small companies regime

The small companies regime applies to a company for a financial year in relation to which the company–

(a) qualifies as small (see sections 369 (general) and 370 (parent companies)), and

(b) is not excluded from the regime (see section 371 (companies excluded from the small companies regime)).

369. Companies qualifying as small: general

(1) A company qualifies as small in relation to its first financial year if the qualifying conditions are met in that year.

(2) Subject to subsection (3), a company qualifies as small in relation to a subsequent financial year if the qualifying conditions are met in that year.

(3) In relation to a subsequent financial year, where on its balance sheet date a company meets or ceases to meet the qualifying conditions, that affects its qualification as a small company only if it occurs in two consecutive financial years.

(4) The qualifying conditions are met by a company in a year in which it satisfies both of the following requirements–

1. Turnover	Not more than 13.5 million US dollars
2. Number of employees	Not more than 35

(5) For a period that is a company's financial year but not in fact a year the maximum figures for turnover must be proportionately adjusted.

(6) The number of employees means the average number of persons employed by the company in the year, determined as follows–

(a) find for each month in the financial year the number of persons employed under contracts of service by the company in that month (whether throughout the month or not),

(b) add together the monthly totals, and

(c) divide by the number of months in the financial year.

(7) This section is subject to section 370 (companies qualifying as small: parent companies).

370. Companies qualifying as small: parent companies

(1) A parent company qualifies as a small company in relation to a financial year only if the group headed by it qualifies as a small group.

(2) A group qualifies as small in relation to the parent company's first financial year if the qualifying conditions are met in that year.

(3) Subject to subsection (4), a group qualifies as small in relation to a subsequent financial year of the parent company if the qualifying conditions are met in that year.

(4) In relation to a subsequent financial year of the parent company, where on the parent company's balance sheet date the group meets or ceases to meet the qualifying conditions, that affects the group's qualification as a small group only if it occurs in two consecutive financial years.

(5) The qualifying conditions are met by a group in a year in which it satisfies both of the following requirements–

1. Aggregate turnover	Not more than 13.5 million US dollars net (or 16.2 million US dollars gross)
2. Aggregate number of employees	Not more than 35

(6) The aggregate figures are ascertained by aggregating the relevant figures determined in accordance with section 369 (companies qualifying as small: general) for each member of the group.

(7) In relation to the aggregate figures for turnover–

"net" means after any set offs and other adjustments made to eliminate group transactions in accordance with international accounting standards, and

"gross" means without those set offs and other adjustments.

A company may satisfy any relevant requirement on the basis of either the net or the gross figure.

(8) The figures for each subsidiary undertaking shall be those included in its individual accounts for the relevant financial year, that is–

(a) if its financial year ends with that of the parent company, that financial year, and

(b) if not, its financial year ending last before the end of the financial year of the parent company.

If those figures cannot be obtained without disproportionate expense or undue delay, the latest available figures shall be taken.

371. Companies excluded from the small companies regime

(1) The small companies regime does not apply to a company that is, or was at any time within the financial year to which the accounts relate–

(a) a public interest entity,

(b) a financial institution other than a FinTech Participant, or

(c) a member of an ineligible group other than a FinTech Participant.

(2) A group is ineligible if any of its members is–

(a) a public interest entity, or

(b) a financial institution other than a FinTech Participant.

372. Public interest entities and financial institutions

(1) For the purposes of this Part a company is a public interest entity in relation to a financial year if it is a public interest entity immediately before the end of the accounting reference period by reference to which that financial year was determined.

(2) A "public-interest entity" means a company:

(a) that is listed on a recognised investment exchange, or

(b) that is designated by the Board as a public-interest entity, because of the nature of its business, its size or the number of its employees.

(3) For the purposes of this Part a company is a "financial institution" in relation to a financial year if it was a financial institution at any time during the accounting reference period by reference to which that financial year was determined.

(4) The Board may make rules amending or replacing the provisions of subsections (1) to (3) so as to limit or extend the application of some or all of the provisions of this Part that refer to public interest entities and/or financial institutions.

373. Companies qualifying as micro-entities

(1) A company qualifies as a micro-entity in relation to its first financial year if the qualifying conditions are met in that year.

(2) Subject to subsection (3), a company qualifies as a micro-entity in relation to a subsequent financial year if the qualifying conditions are met in that year.

(3) In relation to a subsequent financial year, where on its balance sheet date a company meets or ceases to meet the qualifying conditions, that affects its qualification as a micro-entity only if it occurs in two consecutive financial years.

(4) The qualifying conditions are met by a company in a year in which it satisfies both of the following requirements–

1. Turnover	not more than 2.5 million US dollars
2. Number of employees	not more than 9

(5) For a period that is a company's financial year but not in fact a year the maximum figures for turnover must be proportionately adjusted.

(6) The number of employees means the average number of persons employed by the company in the year, determined as follows–

(a) find for each month in the financial year the number of persons employed under contracts of service by the company in that month (whether throughout the month or not),

(b) add together the monthly totals, and

(c) divide by the number of months in the financial year.

(7) In the case of a company which is a parent company, the company qualifies as a micro-entity in relation to a financial year only if–

(a) the company qualifies as a micro-entity in relation to that year, as determined by subsections (1) to (7), and

(b) the group headed by the company qualifies as a small group, as determined by section 369(2) to (6).

374. Companies excluded from being treated as micro-entities

(1) The micro-entity provisions do not apply in relation to a company's accounts for a particular financial year if the company was at any time within that year a company excluded from the small companies regime by virtue of section 371 (companies excluded from the small companies regime).

(2) The micro-entity provisions also do not apply in relation to a company's accounts for a financial year if –

(a) the company is a parent company which prepares group accounts for that year as permitted by section 388 (option to prepare group accounts), or

(b) the company is not a parent company but its accounts are included in consolidated group accounts for that year.

CHAPTER 2

ACCOUNTING RECORDS

375. Duty to keep accounting records

(1) Every company must keep adequate accounting records.

(2) Adequate accounting records means records that are sufficient–

(a) to show and explain the company's transactions,

(b) to disclose with reasonable accuracy, at any time, the financial position of the company at that time, and

(c) to enable the directors to ensure that any accounts required to be prepared comply with the requirements of these Regulations.

(3) Accounting records must, in particular, contain records and underlying documents comprising initial and other accounting entries and associated supporting documents such as:–

(a) cheques;

(b) records of electronic fund transfers;

(c) invoices;

(d) contracts;

(e) the general and subsidiary ledgers, journal entries and other adjustments to the financial statements that are not reflected in journal entries;

(f) work sheets and spread sheets supporting cost allocations, computations, reconciliations and disclosures; and

(g) a record of the assets and liabilities of the company.

(4) If the company's business involves dealing in goods, the accounting records must contain–

(a) statements of stock held by the company at the end of each financial year of the company,

(b) all statements of stocktakings from which any statement of stock as is mentioned in subsection (4)(a) has been or is to be prepared, and

(c) except in the case of goods sold by way of ordinary retail trade, statements of all goods sold and purchased, showing the goods and the buyers and sellers in sufficient detail to enable all these to be identified.

(5) A parent company that has a subsidiary undertaking in relation to which the above requirements do not apply must take reasonable steps to secure that the undertaking keeps such accounting records as to enable the directors of the parent company to ensure that any accounts required to be prepared under this Part comply with the requirements of these Regulations.

376. Duty to keep accounting records: contravention

(1) If a company fails to comply with any provision of section 375 (duty to keep accounting records), a contravention of these Regulations is committed by every officer of the company who is in default.

(2) A person does not commit the contravention referred to in subsection (1) if he shows that he acted honestly and that in the circumstances in which the company's business was carried on the default was excusable.

(3) A person who commits the contravention referred to in subsection (1) shall be liable to a fine of up to level 5.

377. Where and for how long records to be kept

(1) A company's accounting records–

(a) must be kept at its registered office or such other place as the directors think fit, and

(b) must at all times be open to inspection by the company's officers.

(2) If accounting records are kept at a place outside the Abu Dhabi Global Market, accounts and returns with respect to the business dealt with in the accounting records so kept must be sent to, and kept at, a place in the Abu Dhabi Global Market, and must at all times be open to such inspection.

(3) The accounts and returns to be sent to the Abu Dhabi Global Market must be such as to–

(a) disclose with reasonable accuracy the financial position of the business in question at intervals of not more than six months, and

(b) enable the directors to ensure that the accounts required to be prepared under this Part comply with the requirements of these Regulations.

(4) Accounting records that a company is required by section 375 (duty to keep accounting records) to keep must be preserved by it for ten years from the date on which they are made.

(5) Subsection (4) is subject to any provision contained in other regulation or law applicable in the Abu Dhabi Global Market.

378. Where and for how long records to be kept: contraventions

(1) If a company fails to comply with any provision of subsections (1) to (4) of section 377 (where and for how long records to be kept), a contravention of these Regulations is committed by every officer of the company who is in default.

(2) A person does not commit the contravention referred to in subsection (1) if he shows that he acted honestly and that in the circumstances in which the company's business was carried on the default was excusable.

(3) An officer of a company commits a contravention of these Regulations if he–

(a) fails to take all reasonable steps for securing compliance by the company with subsection (4) of that section (period for which records to be preserved), or

(b) intentionally causes any default by the company under that subsection.

(4) Subject to subsection (2), a person who commits the contraventions referred to in subsection (1) shall be liable to a level 2 fine.

(5) A person who commits the contraventions referred to in subsection (3) shall be liable to a fine of up to level 5.

378A. Duty to not destroy accounting records[8]

(1) The accounting records of a company that has its name struck off the register shall not be destroyed for a period of 5 years from the date of strike off.

(2) Failure to comply with subsection (1) is a contravention of these Regulations committed by every officer of the company who is in default.

(3) A person who commits the contravention referred to in subsection (2) shall be liable to fine of up to level 4.

CHAPTER 3

A COMPANY'S FINANCIAL YEAR

379. A company's financial year

(1) The financial year of a company (including a restricted scope company to which the provisions of this Chapter 3 apply) is determined as follows.

[8] Amended 23 February 2023

(2) Its first financial year–

(a) begins with the first day of its first accounting reference period, and

(b) ends with the last day of that period or such other date, not more than seven days before or after the end of that period, as the directors may determine.

(3) Subsequent financial years–

(a) begin with the day immediately following the end of the company's previous financial year, and

(b) end with the last day of its next accounting reference period or such other date, not more than seven days before or after the end of that period, as the directors may determine.

(4) In relation to an undertaking that is not a company, references in these Regulations to its financial year are to any period in respect of which a profit and loss account of the undertaking is required to be made up (by its constitution or by the law under which it is established), whether that period is a year or not.

(5) The directors of a parent company must secure that, except where in their opinion there are good reasons against it, the financial year of each of its subsidiary undertakings coincides with the company's own financial year.

380. Accounting reference periods and accounting reference date

(1) A company's accounting reference periods are determined according to its accounting reference date in each calendar year.

(2) A company's first accounting reference period is the period of more than six months, but not more than 18 months, beginning with the date of its incorporation and ending with its accounting reference date.

(3) Its subsequent accounting reference periods are successive periods of twelve months beginning immediately after the end of the previous accounting reference period and ending with its accounting reference date.

(4) This section has effect subject to the provisions of section 381 (alteration of accounting reference date).

381. Alteration of accounting reference date

(1) A company may by notice given to the Registrar specify a new accounting reference date having effect in relation to–

(a) the company's current accounting reference period and subsequent periods, or

(b) the company's previous accounting reference period and subsequent periods.

A company's "previous accounting reference period" means the one immediately preceding its current accounting reference period.

(2) The notice must state whether the current or previous accounting reference period–

(a) is to be shortened, so as to come to an end on the first occasion on which the new accounting reference date falls or fell after the beginning of the period, or

(b) is to be extended, so as to come to an end on the second occasion on which that date falls or fell after the beginning of the period.

(3) A notice extending a company's current or previous accounting reference period is not effective if given less than five years after the end of an earlier accounting reference period of the company that was extended under this section.

This does not apply–

(a) where the company is in administration under Part 1 (administration) of the Insolvency Regulations 2015, or

(b) where the Registrar directs that it should not apply, which he may do with respect to a notice that has been given or that may be given.

(4) A notice under this section may not be given in respect of a previous accounting reference period if the period for filing accounts and reports for the financial year determined by reference to that accounting reference period has already expired.

(5) An accounting reference period may not be extended so as to exceed 18 months and a notice under this section is ineffective if the current or previous accounting reference period as extended in accordance with the notice would exceed that limit.

This does not apply where the company is in administration under Part 1 (administration) of the Insolvency Regulations 2015.

CHAPTER 4

ANNUAL ACCOUNTS

General

382. Accounts to give a fair representation

(1) The directors of a company must not approve accounts for the purposes of this Chapter unless they are satisfied that they give a fair representation of the assets, liabilities, financial position and profit or loss–

(a) in the case of the company's individual accounts, of the company,

(b) in the case of the company's group accounts, of the undertakings included in the consolidation as a whole, so far as concerns members of the company.

(2) The following provisions apply to the directors of a company which qualifies as a micro-entity in relation to a financial year (see sections 373 (companies qualifying as micro-entities) and 374 (companies excluded from being treated as micro-entities)) in their consideration of whether the individual accounts of the company for that year give a fair representation as required by subsection (1)(a)–

(a) where the accounts comprise only micro-entity minimum accounting items, the directors must disregard any provision of an accounting standard which would require the accounts to contain information additional to those items,

(b) in relation to a micro-entity minimum accounting item contained in the accounts, the directors must disregard any provision of an accounting standard which would require the accounts to contain further information in relation to that item, and

(c) where the accounts contain an item of information additional to the micro-entity minimum accounting items, the directors must have regard to any provision of an accounting standard which relates to that item.

(3) The auditor of a company in carrying out his functions under these Regulations in relation to the company's annual accounts must have regard to the directors' duty under subsection (1).

383. Duty to prepare individual accounts

(1) The directors of every company must prepare accounts for the company for each of its financial years unless the company is exempt from that requirement under section 384 (individual accounts: exemption for dormant subsidiaries).

(2) The directors of every restricted scope company must prepare accounts for the company under the small companies regime for each of its financial years (whether or not such company would otherwise qualify as small under Chapter 1 of this Part), unless the company is exempt from that requirement under section 384 (individual accounts: exemption for dormant subsidiaries).

(3) Accounts prepared pursuant to this section are referred to as the company's "individual accounts".

384. Individual accounts: exemption for dormant subsidiaries

(1) A company that is otherwise required to prepare individual accounts is exempt from this requirement for a financial year if–

(a) it is itself a subsidiary undertaking, and

(b) it has been dormant throughout the whole of that year,

(2) Exemption is conditional upon compliance with all of the following conditions–

(a) all members of the company must agree to the exemption in respect of the financial year in question,

(b) the parent undertaking must give a guarantee under section 386 (parent undertaking declaration of guarantee) in respect of that year,

(c) the company must be included in the consolidated accounts drawn up for that year or to an earlier date in that year by the parent undertaking,

(d) the parent undertaking must disclose in the notes to the consolidated accounts that the company is exempt from the requirement to prepare individual accounts by virtue of this section, and

(e) the directors of the company must deliver to the Registrar within the period for filing the company's accounts and reports for that year–

(i) a written notice of the agreement referred to in subsection (2)(a),

(ii) the statement referred to in section 386(1) (parent undertaking declaration of guarantee),

(iii) a copy of the consolidated accounts referred to in subsection (2)(c),

(iv) a copy of the auditor's report on those accounts, and

(v) a copy of the consolidated annual report drawn up by the parent undertaking.

385. Companies excluded from the dormant subsidiaries exemption

A company is not entitled to the exemption conferred by section 384 (individual accounts: exemption for dormant subsidiaries) if it was at any time within the financial year in question–

(a) is a public interest entity, or

(b) is a financial institution, or

(c) a member of an ineligible group (as defined in section 371(2) (companies excluded from the small companies regime))

386. Dormant subsidiaries exemption: parent undertaking declaration of guarantee

(1) A guarantee is given by a parent undertaking under this section when the directors of the subsidiary company deliver to the Registrar a statement by the parent undertaking that it guarantees the subsidiary company under this section.

(2) The statement under subsection (1) must be authenticated by the parent undertaking and must specify–

(a) the name of the parent undertaking,

(b) if the parent undertaking is incorporated in the Abu Dhabi Global Market, its registered number (if any),

(c) if the parent undertaking is incorporated outside the Abu Dhabi Global Market and registered in the country in which it is incorporated, the identity of the register on which it is registered and the number with which it is so registered,

(d) the name and registered number of the subsidiary company in respect of which the guarantee is being given,

(e) the date of the statement, and

(f) the financial year to which the guarantee relates.

(3) A guarantee given under this section has the effect that–

(a) the parent undertaking guarantees all outstanding liabilities to which the subsidiary company is subject at the end of the financial year to which the guarantee relates, until they are satisfied in full, and

(b) the guarantee is enforceable against the parent undertaking by any person to whom the subsidiary company is liable in respect of those liabilities.

387. Individual accounts: applicable accounting framework

(1) A company's individual accounts shall be prepared in accordance with international accounting standards ("IAS individual accounts").

(2) The Board may make rules prescribing (i) the circumstances in which other accounting standards may be adopted for the purpose of preparing a company's individual accounts and (ii) the other accounting standards which may be so adopted.

388. Option to prepare group accounts

If at the end of a financial year a company subject to the small companies regime is a parent company the directors, as well as preparing individual accounts for the year, may prepare group accounts for the year.

389. Duty to prepare group accounts

(1) This section applies to companies that are not subject to the small companies regime.

(2) If at the end of a financial year the company is a parent company the directors, as well as preparing individual accounts for the year, must prepare group accounts for the year unless the company is exempt from that requirement.

(3) Group accounts prepared in accordance with this section shall be prepared in accordance with international accounting standards ("IAS group accounts").

(4) The Board may make rules prescribing other accounting standards which may be adopted for the purpose of preparing group accounts.

(5) There are exemptions to the requirements of this section under section 390 (exemption for company included in group accounts of larger group).

(6) A company to which this section applies but which is exempt from the requirement to prepare group accounts, may do so.

390. Exemption for company included in group accounts of larger group

(1) A company is exempt from the requirement to prepare group accounts if it is itself a subsidiary undertaking, in the following cases–

(a) where the company is a wholly-owned subsidiary,

(b) where its parent undertaking holds more than 50% of the shares in the company and notice requesting the preparation of group accounts has not been served on the company by shareholders holding in aggregate–

(i) more than half of the remaining shares in the company (excluding treasury shares), or

(ii) 5% of the total shares in the company (excluding treasury shares).

Such notice must be served not later than six months after the end of the financial year before that to which it relates.

(2) Exemption is conditional upon compliance with all of the following conditions–

(a) the company and all of its subsidiary undertakings must be included in consolidated accounts for a larger group drawn up to the same date, or to an earlier date in the same financial year, by a parent undertaking,

(b) those accounts and, where appropriate, the group's annual report, must be drawn up in accordance with the requirements of these Regulations with respect to such accounts and reports or otherwise in a manner equivalent to consolidated accounts and consolidated annual reports so drawn up,

(c) the group accounts must be audited by one or more persons authorised to audit accounts under the law under which the parent undertaking which draws them up is established,

(d) the company must disclose in its individual accounts that it is exempt from the obligation to prepare and deliver group accounts,

(e) the company must state in its individual accounts the name of the parent undertaking which draws up the group accounts referred to above and–

(i) if it is incorporated outside the Abu Dhabi Global Market, the country in which it is incorporated, or

(ii) if it is unincorporated, the address of its principal place of business,

(f) the company must deliver to the Registrar, within the period for filing its accounts and reports for the financial year in question, copies of–

(i) the group accounts, and

(ii) where appropriate, the consolidated annual report,

(iii) together with the auditor's report on them,

(g) any requirement of Part 31 of these Regulations as to the delivery to the Registrar of a certified translation into English must be met in relation to any document comprised in the accounts and reports delivered in accordance with subsection (2)(f).

(3) For the purposes of subsection (1)(b), shares held by a wholly-owned subsidiary of the parent undertaking, or held on behalf of the parent undertaking or a wholly-owned subsidiary, are attributed to the parent undertaking.

(4) Shares held by directors of a company for the purpose of complying with any share qualification requirement shall be disregarded in determining for the purposes of this section whether the company is a wholly-owned subsidiary.

391. Consistency of financial reporting within group

(1) The directors of a parent company must secure that the individual accounts of–

(a) the parent company, and

(b) each of its subsidiary undertakings,

are all prepared using the same financial reporting framework, except to the extent that in their opinion there are good reasons for not doing so.

(2) Subsection (1) does not apply if the directors do not prepare group accounts for the parent company.

(3) Subsection (1) only applies to accounts of subsidiary undertakings that are required to be prepared under this Part.

(4) Subsection (1)(a) does not apply where the directors of a parent company prepare IAS group accounts and IAS individual accounts.

392. Individual profit and loss account where group accounts prepared

(1) This section applies where–

(a) a company prepares group accounts in accordance with these Regulations, and

(b) the notes to the company's individual balance sheet show the company's profit or loss for the financial year determined in accordance with these Regulations.

(2) The company's individual profit and loss account need not contain the information specified in section 396 (information about employee numbers and costs).

(3) The company's individual profit and loss account must be approved in accordance with section 399(1) (approval by directors) but may be omitted from the company's annual accounts for the purposes of the other provisions of these Regulations.

393. Information about related undertakings

(1) The Board may make rules requiring information about related undertakings to be given in notes to a company's annual accounts.

(2) The rules–

(a) may make different provision according to whether or not the company prepares group accounts, and

(b) may specify the descriptions of undertaking in relation to which it applies, and make different provision in relation to different descriptions of related undertaking.

(3) The rules may provide that information need not be disclosed with respect to an undertaking that–

(a) is established under the law of a jurisdiction outside the Abu Dhabi Global Market, or

(b) carries on business outside the Abu Dhabi Global Market,

if the following conditions are met.

(4) The conditions are–

(a) that in the opinion of the directors of the company the disclosure would be seriously prejudicial to the business of–

(i) that undertaking,

(ii) the company,

(iii) any of the company's subsidiary undertakings, or

(iv) any other undertaking which is included in the consolidation, and

(b) that the Registrar agrees that the information need not be disclosed.

(5) Where advantage is taken of any such exemption, that fact must be stated in a note to the company's annual accounts.

394. Information about related undertakings: alternative compliance

(1) This section applies where the directors of a company are of the opinion that the number of undertakings in respect of which the company is required to disclose information under any provision of a rule made under section 393 (information about related undertakings) is such that compliance with that provision would result in information of excessive length being given in notes to the company's annual accounts.

(2) The information need only be given in respect of the undertakings whose results or financial position, in the opinion of the directors, principally affected the figures shown in the company's annual accounts.

(3) If advantage is taken of subsection (2)–

(a) there must be included in the notes to the company's annual accounts a statement that the information is given only with respect to such undertakings as are mentioned in that subsection, and

(b) the full information (both that which is disclosed in the notes to the accounts and that which is not) must be annexed to the company's nextconfirmation statement.

For this purpose the "nextconfirmation statement" means that next delivered to the Registrar after the accounts in question have been approved under section 399 (approval and signing of accounts).

(4) If a company fails to comply with subsection (3)(b), a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits the contravention referred to in subsection (4) shall be liable to a level 3 fine.

395. Information about off-balance sheet arrangements

(1) In the case of a company that is not subject to the small companies regime, if in any financial year–

(a) the company is or has been party to arrangements that are not reflected in its balance sheet, and

(b) at the balance sheet date the risks or benefits arising from those arrangements are material,

(c) the information required by this section must be given in notes to the company's annual accounts.

(2) The information required is–

(a) the nature and business purpose of the arrangements, and

(b) the financial impact of the arrangements on the company.

(3) The information need only be given to the extent necessary for enabling the financial position of the company to be assessed.

(4) If the company qualifies as medium-sized in relation to the financial year (see sections 438 (companies qualifying as medium-sized: general) to 440 (companies excluded from being treated as medium-sized)) it need not comply with subsection (2)(b).

(5) This section applies in relation to group accounts as if the undertakings included in the consolidation were a single company.

396. Information about employee numbers and costs

(1) In the case of a company not subject to the small companies regime, the following information with respect to the employees of the company must be given in notes to the company's annual accounts–

(a) the average number of persons employed by the company in the financial year, and

(b) the average number of persons so employed within each category of persons employed by the company.

(2) The categories by reference to which the number required to be disclosed by subsection (1)(b) is to be determined must be such as the directors may select having regard to the manner in which the company's activities are organised.

(3) The average number required by subsection (1)(a) or (b) is determined by dividing the relevant annual number by the number of months in the financial year.

(4) The relevant annual number is determined by ascertaining for each month in the financial year–

(a) for the purposes of subsection (1)(a), the number of persons employed under contracts of service by the company in that month (whether throughout the month or not),

(b) for the purposes of subsection (1)(b), the number of persons in the category in question of persons so employed,

(c) and adding together all the monthly numbers.

(5) In respect of all persons employed by the company during the financial year who are taken into account in determining the relevant annual number for the purposes of subsection (1)(a) there must also be stated the aggregate amounts respectively of–

(a) wages and salaries paid or payable in respect of that year to those persons,

(b) social security costs incurred by the company on their behalf, and

(c) other pension costs so incurred.

This does not apply in so far as those amounts, or any of them, are stated elsewhere in the company's accounts.

(6) In subsection (5)–

"pension costs" includes any costs incurred by the company in respect of–

(a) any pension scheme established for the purpose of providing pensions for persons currently or formerly employed by the company,

(b) any sums set aside for the future payment of pensions or sums due in respect of employees' end-of service gratuity entitlements directly by the company to current or former employees, and

(c) any pensions or end-of service gratuity payments paid directly to such persons without having first been set aside,

"social security costs" means any contributions by the company to any state social security or pension scheme, fund or arrangement.

(7) This section applies in relation to group accounts as if the undertakings included in the consolidation were a single company.

397. Information about directors' benefits: remuneration

(1) The Board may make rules requiring information to be given in notes to a company's annual accounts about directors' remuneration.

(2) The matters about which information may be required include–

(a) gains made by directors on the exercise of share options,

(b) benefits received or receivable by directors under long-term incentive schemes,

(c) payments for loss of office (as defined in section 203 (payments for loss of office)) and entitlements to end-of-service gratuity payments,

(d) benefits receivable, and contributions for the purpose of providing benefits, in respect of past services of a person as director or in any other capacity while director,

(e) consideration paid to or receivable by third parties for making available the services of a person as director or in any other capacity while director.

(3) For the purposes of this section, and rules made under it, amounts paid to or receivable by–

(a) a person connected with a director, or

(b) a body corporate controlled by a director,

are treated as paid to or receivable by the director.

The expressions "connected with" and "controlled by" in this subsection have the same meaning as in Part 10 (company directors).

(4) It is the duty of–

(a) any director of a company, and

(b) any person who is or has at any time in the preceding five years been a director of the company,

to give notice to the company of such matters relating to himself as may be necessary for the purposes of rules under this section.

(5) A person who makes default in complying with subsection (4) commits a contravention of these Regulations and shall be liable to a level 3 fine.

398. Information about directors' benefits: advances, credit and guarantees

(1) In the case of a company that does not prepare group accounts, details of–

(a) advances and credits granted by the company to its directors, and

(b) guarantees of any kind entered into by the company on behalf of its directors,

must be shown in the notes to its individual accounts.

(2) In the case of a parent company that prepares group accounts, details of–

(a) advances and credits granted to the directors of the parent company, by that company or by any of its subsidiary undertakings, and

(b) guarantees of any kind entered into on behalf of the directors of the parent company, by that company or by any of its subsidiary undertakings,

must be shown in the notes to the group accounts.

(3) The details required of an advance or credit are–

(a) its amount,

(b) an indication of the interest rate,

(c) its main conditions, and

(d) any amounts repaid.

(4) The details required of a guarantee are–

(a) its main terms,

(b) the amount of the maximum liability that may be incurred by the company (or its subsidiary), and

(c) any amount paid and any liability incurred by the company (or its subsidiary) for the purpose of fulfilling the guarantee (including any loss incurred by reason of enforcement of the guarantee).

(5) There must also be stated in the notes to the accounts the totals–

(a) of amounts stated under subsection (3)(a),

(b) of amounts stated under subsection (3)(d),

(c) of amounts stated under subsection (4)(b), and

(d) of amounts stated under subsection (4)(c).

(6) References in this section to the directors of a company are to the persons who were a director at any time in the financial year to which the accounts relate.

(7) The requirements of this section apply in relation to every advance, credit or guarantee subsisting at any time in the financial year to which the accounts relate–

(a) whenever it was entered into,

(b) whether or not the person concerned was a director of the company in question at the time it was entered into, and

(c) in the case of an advance, credit or guarantee involving a subsidiary undertaking of that company, whether or not that undertaking was such a subsidiary undertaking at the time it was entered into.

(8) Financial institutions need only state the details required by subsection (5)(a) and (c).

399. Approval and signing of accounts

(1) A company's annual accounts must be approved by the board of directors and signed on behalf of the board by a director of the company.

(2) The signature must be on the company's balance sheet.

(3) If the accounts are prepared in accordance with the small companies regime, the balance sheet must contain, in a prominent position above the signature:

(a) in the case of individual accounts prepared in accordance with the micro-entity provisions, a statement to that effect, or

(b) in the case of accounts not prepared as mentioned in subsection (3)(a), a statement to the effect that the accounts have been prepared in accordance with the provisions applicable to companies subject to the small companies regime.

(4) If annual accounts are approved that do not comply with the requirements of these Regulations, every director of the company who–

(a) knew that they did not comply, or was reckless as to whether they complied, and

(b) failed to take reasonable steps to secure compliance with those requirements or, as the case may be, to prevent the accounts from being approved,

(c) commits a contravention of these Regulations.

(5) A person who commits the contravention referred to in subsection (4) shall be liable to a fine of up to level 5.

CHAPTER 4A

ENVIRONMENTAL, SOCIAL AND GOVERNANCE DISCLOSURES[9]

General

399A. Scope of requirements in this chapter

(1) A company shall be subject to the provisions of this Chapter where the conditions of subsection (2) are met in that year.

(2) The conditions are met by a company in each financial year following the second anniversary of the issuance of its certificate of incorporation or continuance where:

(a) a company has turnover of more than 68 million US dollars, or

[9] Amended 4 July 2023

(b) a company is a financial institution which:

(i) has a Financial Services Permission to carry on the Regulated Activity of:

(A) Managing a Collective Investment Fund, or

(B) Managing Assets, and

(ii) has assets under management of more than 6 billion US dollars at any time during such financial year.

(3) Where a company has ceased to meet the conditions in subsection 399A(2)(a) or 399A(2)(b) as applicable for two or more consecutive financial years, it shall not be required to comply with this Chapter for each subsequent financial year that the conditions of subsection 2 are not met.

(4) A company not meeting the conditions of subsection (2) may choose to comply with the provisions of this Chapter on a voluntary basis.

399B. Environmental, social and governance ("ESG") disclosures

(1) Subject to subsection (5), a company meeting the conditions specified in subsection 399A(2) must include the information required by this section in the company's annual accounts, or in a separate document which accompanies the company's annual accounts submitted to the Registrar.

(2) The information required is –

(a) where the company meets the condition under subsection 399A(2)(a), information necessary for an understanding of the company's position in terms of development, strategy, performance and position by reference to an international framework relating to environmental, social and governance matters; or

(b) where the company meets the conditions under subsection 399A(2)(b), information necessary for an understanding of the development, performance and position of the overall assets managed or administered by the company by reference to an international framework relating to environmental, social and governance matters.

(3) The information required by this section must specify the international framework relied upon.

(4) The Board may make rules prescribing the ESG disclosures undertaken by a company, including the international framework that may be adopted for the purposes of providing the information required under subsection (2).

(5) A company meeting the conditions specified in subsection 399A(2) may choose not to provide the information required under subsection (2), only where the company submits to the Registrar a clear and reasoned written explanation for not doing so.

399C. Exemption for a company included in the group annual accounts of a larger group

(1) Subject to (2), a company is exempt from the requirement to provide the information in section 399B(2) where it is a subsidiary undertaking and equivalent information is included in the consolidated group annual accounts or associated reports.

(2) Exemption is conditional upon compliance with all the following conditions –

(a) the consolidated group annual accounts or associated reports must be broadly equivalent to the ESG disclosure requirements in this Chapter;

(b) the company must disclose in its individual annual accounts that it is exempt from the obligation to provide the information required under subsection 399B(2); and

(c) the company must state in its individual annual accounts the name of the parent undertaking that draws up the consolidated group annual accounts or associated reports referred to in subsection (1) above.

(3) If requested by the Registrar, the company must, within such time period as specified by the Registrar, deliver to the Registrar copies of the consolidated group annual accounts or associated reports referred to in subsection (1) above.

399D. Companies exempted from the provisions in this Chapter

(1) A company which satisfies the conditions in subsection 399A(2) is exempt from the requirement to provide information under section 399B where it is:

(a) listed on an investment exchange and ESG disclosure is a requirement of the company to maintain its listing on that investment exchange; or

(b) a Restricted Scope Company; or

(c) an Investment Company.

CHAPTER 5

DIRECTORS' REPORT

Directors' report

400. Duty to prepare directors' report

(1) The directors of a company must prepare a directors' report for each financial year of the company.

(2) For a financial year in which–

(a) the company is a parent company, and

(b) the directors of the company prepare group accounts,

the directors' report must be a consolidated report (a "group directors' report") relating to the undertakings included in the consolidation.

(3) A group directors' report may, where appropriate, give greater emphasis to the matters that are significant to the undertakings included in the consolidation, taken as a whole.

(4) In the case of failure to comply with the requirement to prepare a directors' report, a contravention of these Regulations is committed by every person who–

(a) was a director of the company immediately before the end of the period for filing accounts and reports for the financial year in question, and

(b) failed to take all reasonable steps for securing compliance with that requirement.

(5) A person who commits the contravention referred to in subsection (4) shall be liable to a level 3 fine.

(6) This Chapter shall not apply to a company that is a restricted scope company.

401. Directors' report: small companies exemption

(1) A company is entitled to small companies exemption in relation to the directors' report for a financial year if–

(a) it is entitled to prepare accounts for the year in accordance with the small companies regime, or

(b) it would be so entitled but for being or having been a member of an ineligible group.

(2) The exemption is relevant to–

section 402(1)(b) (contents of directors' report: statement of amount recommended by way of dividend), and

sections 418 to 421 (filing obligations of different descriptions of company).

402. Contents of directors' report: general

(1) The directors' report for a financial year must state–

(a) the names of the persons who, at any time during the financial year, were directors of the company, and

(b) except in the case of a company entitled to the small companies exemption, the amount (if any) that the directors recommend should be paid by way of dividend.

(2) The Board may make rules as to other matters that must be disclosed in a directors' report.

403. Contents of directors' report: statement as to disclosure to auditors

(1) This section applies to a company unless–

(a) it is exempt for the financial year in question from the requirements of Part 15 as to audit of accounts, and

(b) the directors take advantage of that exemption.

(2) The directors' report must contain a statement to the effect that, in the case of each of the persons who are directors at the time the report is approved–

(a) so far as the director is aware, there is no relevant audit information of which the company's auditor is unaware, and

(b) he has taken all the steps that he ought to have taken as a director in order to make himself aware of any relevant audit information and to establish that the company's auditor is aware of that information.

(3) "Relevant audit information" means information needed by the company's auditor in connection with preparing his report.

(4) A director is regarded as having taken all the steps that he ought to have taken as a director in order to do the things mentioned in subsection (2)(b) if he has–

(a) made such enquiries of his fellow directors and of the company's auditors for that purpose, and

(b) taken such other steps (if any) for that purpose,

as are required by his duty as a director of the company to exercise reasonable care, skill and diligence.

(5) Where a directors' report containing the statement required by this section is approved but the statement is false, every director of the company who–

(a) knew that the statement was false, or was reckless as to whether it was false, and

(b) failed to take reasonable steps to prevent the report from being approved,

(c) commits a contravention of these Regulations.

(6) A person who commits the contravention referred to in subsection (5) shall be liable to a fine of up to level 4.

404. Approval and signing of directors' report

(1) The directors' report must be approved by the board of directors and signed on behalf of the board by a director or the secretary of the company.

(2) If in preparing the report advantage is taken of the small companies exemption, it must contain a statement to that effect in a prominent position above the signature.

(3) If a directors' report is approved that does not comply with the requirements of these Regulations, every director of the company who–

(a) knew that it did not comply, or was reckless as to whether it complied, and

(b) failed to take reasonable steps to secure compliance with those requirements or, as the case may be, to prevent the report from being approved,

commits a contravention of these Regulations.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a fine of up to level 4.

CHAPTER 6

PUBLICATION OF ACCOUNTS AND REPORTS

Duty to circulate copies of accounts and reports

405. Duty to circulate copies of annual accounts and reports

(1) Every company required to prepare annual accounts must send a copy of its annual accounts and reports for each financial year to–

(a) every member of the company,

(b) every holder of the company's debentures, and

(c) every person who is entitled to receive notice of general meetings.

(2) Copies need not be sent to a person for whom the company does not have a current address.

(3) A company has a "current address" for a person if–

(a) an address has been notified to the company by the person as one at which documents may be sent to him, and

(b) the company has no reason to believe that documents sent to him at that address will not reach him.

(4) In the case of a company not having a share capital, copies need not be sent to anyone who is not entitled to receive notices of general meetings of the company.

(5) Where copies are sent out over a period of days, references in these Regulations to the day on which copies are sent out shall be read as references to the last day of that period.

406. Time allowed for sending out copies of accounts and reports

(1) The time allowed for sending out copies of the company's annual accounts and reports is as follows.

(2) A private company must comply with section 405 (duty to circulate copies of annual accounts and reports) not later than–

(a) the end of the period for filing accounts and reports, or

(b) if earlier, the date on which it actually delivers its accounts and reports to the Registrar.

(3) A public company must comply with section 405 (duty to circulate copies of annual accounts and reports) at least 21 days before the date of the relevant accounts meeting.

(4) If in the case of a public company copies are sent out later than is required by subsection (3), they shall, despite that, be deemed to have been duly sent if it is so agreed by all the members entitled to attend and vote at the relevant accounts meeting.

(5) Whether the time allowed is that for a private company or a public company is determined by reference to the company's status immediately before the end of the

accounting reference period by reference to which the financial year for the accounts in question was determined.

(6) In this section the "relevant accounts meeting" means the accounts meeting of the company at which the accounts and reports in question are to be laid.

407. Default in sending out copies of accounts and reports: contraventions

(1) If default is made in complying with section 405 (duty to circulate copies of annual accounts and reports) or 406 (time allowed for sending out copies of accounts and reports), a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(2) A person who commits the contravention referred to in subsection (1) shall be liable to a fine of up to level 4.

408. Right of member or debenture holder to copies of accounts and reports

(1) A member of, or holder of debentures of, a company is entitled to be provided, on demand and without charge, with a copy of–

(a) the company's last annual accounts,

(b) the last directors' report, and

(c) the auditor's report on those accounts (including the statement on that report),

(2) The entitlement under this section is to a single copy of those documents, but that is in addition to any copy to which a person may be entitled under section 405 (duty to circulate copies of annual accounts and reports).

(3) If a demand made under this section is not complied with within seven days of receipt by the company, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a fine of up to level 4.

409. Name of signatory to be stated in published copies of accounts and reports

(1) Every copy of a document to which this section applies that is published by or on behalf of the company (including, where applicable, a restricted scope company) must state the name of the person who signed it on behalf of the board.

(2) This section applies to the company's balance sheet and its directors' report.

(3) If a copy is published without the required statement of the signatory's name, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 3 fine.

410. Requirements in connection with publication of registrable accounts

(1) If a company publishes any of its registrable accounts, they must be accompanied by the auditor's report on those accounts (unless the company is exempt from audit and the directors have taken advantage of that exemption).

(2) A company that prepares registrable group accounts for a financial year must not publish its registrable individual accounts for that year without also publishing with them its registrable group accounts.

(3) A company's "registrable accounts" are its accounts for a financial year as required to be delivered to the Registrar under section 415 (duty to file accounts and reports with the Registrar).

(4) If a company contravenes any provision of this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits the contravention referred to in subsection (4) shall be liable to a fine of up to level 5.

411. Requirements in connection with publication of non-registrable and other accounts

(1) If a company publishes non-registrable accounts, it must publish with them a statement indicating–

(a) that they are not the company's registrable accounts,

(b) whether registrable accounts dealing with any financial year with which the non-registrable accounts purport to deal have been delivered to the Registrar, and

(c) whether an auditor's report has been made on the company's registrable accounts for any such financial year, and if so whether the report–

(i) was qualified or unqualified, or included a reference to any matters to which the auditor drew attention by way of emphasis without qualifying the report, or

(ii) contained a statement under section 469(2) (accounting records or returns inadequate or accounts), or section 469(3) (failure to obtain necessary information and explanations).

(2) The company must not publish with non-registrable accounts the auditor's report on the company's registrable accounts.

(3) References in this section to the publication by a company of "non-registrable accounts" are to the publication of–

(a) any balance sheet or profit and loss account relating to, or purporting to deal with, a financial year (or any part thereof) of the company, or

(b) an account in any form purporting to be a balance sheet or profit and loss account for a group headed by the company relating to, or purporting to deal with, a financial year (or any part thereof) of the company,

otherwise than as part of the company's registrable accounts.

(4) In subsection (3)(b) "a group headed by the company" means a group consisting of the company and any other undertaking (regardless of whether it is a subsidiary undertaking of the company) other than a parent undertaking of the company.

(5) If a company contravenes any provision of this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(6) A person who commits the contravention referred to in subsection (5) shall be liable to a fine of up to level 4.

(7) If a restricted scope company publishes any accounts such as are mentioned in subsection (3), it must comply with Chapter 8.

412. Meaning of "publication" in relation to accounts and reports

(1) This section has effect for the purposes of–

section 409 (name of signatory to be stated in published copies of accounts and reports),

section 410 (requirements in connection with publication of registrable accounts), and

section 411 (requirements in connection with publication of non-registrable accounts).

(2) For the purposes of those sections a company (including, where applicable, a restricted scope company) is regarded as publishing a document if it publishes, issues or circulates it (including by making it available on a website) or otherwise makes it available for public inspection in a manner calculated to invite members of the public generally, or any class of members of the public, to read it.

CHAPTER 7

PUBLIC COMPANIES: LAYING OF ACCOUNTS AND REPORTS BEFORE GENERAL MEETING

413. Public companies: laying of accounts and reports before general meeting

(1) The directors of a public company must lay before the company in general meeting copies of its annual accounts and reports.

(2) This section must be complied with not later than the end of the period for filing the accounts and reports in question.

(3) In these Regulations "accounts meeting", in relation to a public company, means a general meeting of the company at which the company's annual accounts and reports are (or are to be) laid in accordance with this section.

414. Public companies: failure to lay accounts and reports

(1) If the requirements of section 413 (public companies: laying of accounts and reports before general meeting) are not complied with before the end of the period allowed, every person who immediately before the end of that period was a director of the company commits a contravention of these Regulations.

(2) A person does not commit the contravention referred to in subsection (1) if he proves that he took all reasonable steps for securing that the requirements mentioned in that subsection would be complied with before the end of that period, and for this purpose it is not enough to prove that the documents in question were not in fact prepared as required by this Part.

(3) A person who commits the contravention referred to in subsection (1) shall be liable to a fine of up to level 4.

CHAPTER 8

FILING OF ACCOUNTS AND REPORTS

Duty to file accounts and reports

415. Duty to file accounts and reports with the Registrar[10]

(1) The directors of a company must deliver to the Registrar for each financial year the accounts and reports required by–

section 418 (filing obligations of companies subject to small companies regime),

section 419 (filing obligations of companies entitled to small companies exemption: additional requirements),

section 420 (filing obligations of medium-sized companies), and

section 421 (filing obligations of companies generally).

(2) This is subject to–

section 422 (unlimited companies exempt from obligation to file accounts), and

section 423 (dormant subsidiaries exempt from obligation to file accounts).

(3) Subject to section 411(7), this Chapter shall not apply to a company that is a restricted scope company unless the Registrar has given notice to any restricted scope company that this Chapter applies to it and following notice such restricted scope company shall deliver to the Registrar all accounts required to be prepared by it under these Regulations.

(4) Accounts filed in accordance with this section 415 will not be subject to public disclosure by the Registrar.

[10] Amended 6 September 2021

416. Period allowed for filing accounts

(1) This section specifies the period allowed for the directors of a company to comply with their obligation under section 415 (duty to file accounts and reports with the Registrar) to deliver accounts and reports for a financial year to the Registrar.

This is referred to in these Regulations as the "period for filing" those accounts and reports.

(2) The period is–

(a) for a private company, nine months after the end of the relevant accounting reference period, and

(b) for a public company, six months after the end of that period.

This is subject to the following provisions of this section.

(3) If the relevant accounting reference period is the company's first and is a period of more than twelve months, the period is–

(a) nine months or six months, as the case may be, from the first anniversary of the incorporation of the company, or

(b) three months after the end of the accounting reference period,

whichever last expires.

(4) If the relevant accounting reference period is treated as shortened by virtue of a notice given by the company under section 381 (alteration of accounting reference date), the period is–

(a) that applicable in accordance with the above provisions, or

(b) three months from the date of the notice under that section,

whichever last expires.

(5) If for any special reason the Registrar thinks fit he may, on an application made before the expiry of the period otherwise allowed, by notice in writing to a company extend that period by such further period as may be specified in the notice.

(6) Any such extension must not have the effect of extending the period for filing to more than twelve months after the end of the relevant accounting reference period.

(7) Whether the period allowed is that for a private company or a public company is determined by reference to the company's status immediately before the end of the relevant accounting reference period.

(8) In this section "the relevant accounting reference period" means the accounting reference period by reference to which the financial year for the accounts in question was determined.

417. Calculation of period allowed

(1) This section applies for the purposes of calculating the period for filing a company's accounts and reports which is expressed as a specified number of months from a specified date or after the end of a specified previous period.

(2) Subject to the following provisions, the period ends with the date in the appropriate month corresponding to the specified date or the last day of the specified previous period.

(3) If the specified date, or the last day of the specified previous period, is the last day of a month, the period ends with the last day of the appropriate month (whether or not that is the corresponding date).

(4) If–

(a) the specified date, or the last day of the specified previous period, is not the last day of a month but is the 29th or 30th, and

(b) the appropriate month is February,

the period ends with the last day of February.

(5) "The appropriate month" means the month that is the specified number of months after the month in which the specified date, or the end of the specified previous period, falls.

418. Filing obligations of companies subject to small companies regime[11]

(1) The directors of a company subject to the small companies regime–

(a) must deliver to the Registrar for each financial year a copy of a balance sheet drawn up as at the last day of that year, and

(b) may also deliver to the Registrar–

(i) a copy of the company's profit and loss account for that year, and

(ii) a copy of the directors' report for that year.

(2) The directors must also deliver to the Registrar a copy of the auditor's report on the accounts (and any directors' report) that it delivers.

This does not apply if the company is exempt from audit and the directors have taken advantage of that exemption.

(3) Subject to section 419 the copies of accounts and reports delivered to the Registrar must be copies of the company's annual accounts and reports.

(4) The copies of the balance sheet and any directors' report delivered to the Registrar under this section must state the name of the person who signed it on behalf of the board.

(5) The copy of the auditor's report delivered to the Registrar under this section must–

(a) state the name of the auditor and the name of the person who signed it as senior auditor, or

(b) if the conditions in section 477 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Board in accordance with that section.

[11] Amended 2 September 2021

419. Filing obligations of companies entitled to small companies exemption: additional requirements

(1) Where a company prepares accounts which are deliverable to the Registrar under section 418–

(a) the directors may deliver to the Registrar a copy of a balance sheet drawn up as prescribed in rules made by the Board, and

(b) there may be omitted from the copy of the profit and loss account delivered to the Registrar such items as may be specified by the rules made under subsection (1)(a).

(2) Where the directors of a company subject to the small companies regime deliver to the Registrar accounts, and in accordance with section 418–

(a) do not deliver to the Registrar a copy of the company's profit and loss account, or

(b) do not deliver to the Registrar a copy of the directors' report,

the copy of the balance sheet delivered to the Registrar must contain in a prominent position a statement that the company's annual accounts and reports have been delivered in accordance with the provisions applicable to companies subject to the small companies regime.

420. Filing obligations of medium-sized companies[12]

(1) The directors of a company that qualifies as a medium-sized company in relation to a financial year (see sections 438 (companies qualifying as medium-sized: general) to 440 (companies excluded as being treated as medium-sized)) must deliver to the Registrar a copy of–

(a) the company's annual accounts, and

(b) the directors' report.

(2) They must also deliver to the Registrar a copy of the auditor's report on those accounts (and on the directors' report).

This does not apply if the company is exempt from audit and the directors have taken advantage of that exemption.

(3) The copies of the balance sheet and directors' report delivered to the Registrar under this section must state the name of the person who signed it on behalf of the board.

(4) The copy of the auditor's report delivered to the Registrar under this section must–

(a) state the name of the auditor and the name of the person who signed it as senior auditor, or

(b) if the conditions in section 477 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Board in accordance with that section.

[12] Amended 2 September 2021

(5) This section does not apply to companies within section 418 (filing obligations of companies subject to the small companies regime).

421. Filing obligations of companies generally[13]

(1) The directors of a company must deliver to the Registrar for each financial year of the company a copy of–

(a) the company's annual accounts, and

(b) the directors' report.

(2) The directors to whom subsection (1) applies must also deliver to the Registrar a copy of the auditor's report on those accounts (and the directors' report).

This does not apply if the company is exempt from audit and the directors have taken advantage of that exemption.

(3) The copies of the balance sheet and directors' report delivered to the Registrar under this section must state the name of the person who signed it on behalf of the board.

(4) The copy of the auditor's report delivered to the Registrar under this section must–

(a) state the name of the auditor and the name of the person who signed it as senior auditor, or

(b) if the conditions in section 477 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Board in accordance with that section.

(5) This section does not apply to companies within–

(a) section 418 (filing obligations of companies subject to the small companies regime), or

(b) section 420 (filing obligations of medium-sized companies).

422. Unlimited companies exempt from obligation to file accounts

(1) The directors of an unlimited company are not required to deliver accounts and reports to the Registrar in respect of a financial year if the following conditions are met.

(2) The conditions are that at no time during the relevant accounting reference period–

(a) has the company been, to its knowledge, a subsidiary undertaking of an undertaking which was then limited, or

(b) have there been, to its knowledge, exercisable by or on behalf of two or more undertakings which were then limited, rights which if exercisable by one of them would have made the company a subsidiary undertaking of it, or

(c) has the company been a parent company of an undertaking which was then limited.

[13] Amended 2 September 2021

The references above to an undertaking being limited at a particular time are to an undertaking (under whatever law established) the liability of whose members is at that time limited.

(3) The exemption conferred by this section does not apply if–

(a) the company is a financial institution or the parent company of a group which includes a financial institution, or

(b) each of the members of the company is–

(i) a limited company, or

(ii) another unlimited company each of whose members is a limited company.

The references in subsection (3)(b) to a limited company and another unlimited company, include a comparable undertaking incorporated in or formed under the law of a jurisdiction outside the Abu Dhabi Global Market.

(4) Where a company is exempt by virtue of this section from the obligation to deliver accounts–

(a) section 410(3) (requirements in connection with publication of registrable accounts: meaning of "registrable accounts") has effect with the substitution for the words "as required to be delivered to the Registrar under section 415 (duty to file accounts and reports with the Registrar)" of the words "as prepared in accordance with this Part and approved by the board of directors", and

(b) section 411(1)(b) (requirements in connection with publication of non-registrable accounts: statement whether registrable accounts delivered) has effect with the substitution for the words from "whether registrable accounts" to "have been delivered to the Registrar" of the words "that the company is exempt from the requirement to deliver registrable accounts".

(5) In this section the "relevant accounting reference period", in relation to a financial year, means the accounting reference period by reference to which that financial year was determined.

423. Dormant subsidiaries exempt from obligation to file accounts[14]

(1) The directors of a company are not required to deliver a copy of the company's individual accounts to the Registrar in respect of a financial year if–

(a) the company is a subsidiary undertaking, and

(b) it has been dormant throughout the whole of that year.

(2) Exemption is conditional upon compliance with all of the following conditions–

(a) all members of the company must agree to the exemption in respect of the financial year in question,

(b) the parent undertaking must give a guarantee under section 425 (parent undertaking declaration of guarantee) in respect of that year,

[14] Amended 12 April 2021

(c) the company must be included in the consolidated accounts drawn up for that year or to an earlier date in that year by the parent undertaking in accordance with international accounting standards,

(d) the parent undertaking must disclose in the notes to the consolidated accounts that the directors of the company are exempt from the requirement to deliver a copy of the company's individual accounts to the Registrar by virtue of this section, and

(e) the directors of the company must deliver to the Registrar within the period for filing the company's accounts and reports for that year–

(i) a written notice of the agreement referred to in subsection (2)(a),

(ii) the statement referred to in section 425(1) (parent undertaking declaration of guarantee),

(iii) a copy of the consolidated accounts referred to in subsection (2)(c),

(iv) a copy of the auditor's report on those accounts, and

(v) a copy of the consolidated annual report drawn up by the parent undertaking.

424. Companies excluded from the dormant subsidiaries exemption

The directors of a company are not entitled to the exemption conferred by section 423 (dormant subsidiaries) if the company was at any time within the financial year in question–

(a) a public interest entity, or

(b) a financial institution.

425. Dormant subsidiaries filing exemption: parent undertaking declaration of guarantee[15]

(1) A guarantee is given by a parent undertaking under this section when the directors of the subsidiary company deliver to the Registrar a statement by the parent undertaking that it guarantees the subsidiary company under this section.

(2) The statement under subsection (1) must be authenticated by the parent undertaking and must specify–

(a) the name of the parent undertaking,

(b) if the parent undertaking is incorporated in the Abu Dhabi Global Market, its registered number (if any),

(c) if the parent undertaking is incorporated outside the Abu Dhabi Global Market and registered in the country in which it is incorporated, the identity of the register on which it is registered and the number with which it is so registered,

(d) the name and registered number of the subsidiary company in respect of which the guarantee is being given,

[15] Amended 12 April 2021

(e) the date of the statement, and

(f) the financial year to which the guarantee relates.

(3) A guarantee given under this section has the effect that–

(a) the parent undertaking guarantees all outstanding liabilities to which the subsidiary company is subject at the end of the financial year to which the guarantee relates, until they are satisfied in full, and

(b) the guarantee is enforceable against the parent undertaking by any person to whom the subsidiary company is liable in respect of those liabilities.

426. Default in filing accounts and reports: contraventions

(1) If the requirements of section 415 (duty to file accounts and reports) are not complied with in relation to a company's accounts and reports for a financial year before the end of the period for filing those accounts and reports, the company and every person who immediately before the end of that period was a director of the company, commits a contravention of these Regulations.

(2) A person does not commit the contravention referred to in subsection (1) if he proves that he took all reasonable steps for securing that those requirements would be complied with before the end of that period, and for this purpose, it is not enough to prove that the documents in question were not in fact prepared as required by this Part.

(3) A person who commits the contravention referred to in subsection (1) shall be liable to a fine of up to level 5.

427. Default in filing accounts and reports: Court order

(1) If–

(a) the requirements of section 415 (duty to file accounts and reports) are not complied with in relation to a company's accounts and reports for a financial year before the end of the period for filing those accounts and reports, and

(b) the directors of the company fail to make good the default within 14 days after the service of a notice on them requiring compliance,

the Court may, on the application of any member or creditor of the company or of the Registrar, make an order directing the directors (or any of them) to make good the default within such time as may be specified in the order.

(2) The Court's order may provide that all costs of and incidental to the application are to be borne by the directors.

CHAPTER 9

REVISION OF DEFECTIVE ACCOUNTS AND REPORTS

Voluntary revision

428. Voluntary revision of accounts etc.

(1) If it appears to the directors of a company that–

(a) the company's annual accounts, or

(b) the directors' report,

did not comply with the requirements of these Regulations, they may prepare revised accounts or a revised report or statement.

(2) Where copies of the previous accounts or report have been sent out to members, delivered to the Registrar or (in the case of a public company) laid before the company in general meeting, the revisions must be confined to–

(a) the correction of those respects in which the previous accounts or report did not comply with the requirements of these Regulations, and

(b) the making of any necessary consequential alterations.

(3) The Board may make rules as to the application of the provisions of these Regulations in relation to–

(a) revised annual accounts, or

(b) a revised directors' report,

(4) The rules may, in particular–

(a) make different provision according to whether the previous accounts or report are replaced or are supplemented by a document indicating the corrections to be made,

(b) make provision with respect to the functions of the company's auditor in relation to the revised accounts or report,

(c) require the directors to take such steps as may be specified in the rules where the previous accounts or report have been–

(i) sent out to members and others under section 405 (duty to circulate copies of annual accounts and reports),

(ii) laid before the company in general meeting, or

(iii) delivered to the Registrar,

(d) apply the provisions of these Regulations (including those imposing fines for contraventions of these Regulations) subject to such additions, exceptions and modifications as are specified in the rules;

(e) make provision for the manner in which this Chapter applies to restricted scope companies.

429. Registrar's notice in respect of accounts or reports

(1) This section applies where–

(a) copies of a company's annual accounts or directors' report have been sent out under section 405 (duty to circulate copies of annual accounts and reports), or

(b) a copy of a company's annual accounts or directors' report has been delivered to the Registrar or (in the case of a public company) laid before the company in general meeting,

and it appears to the Registrar that there is, or may be, a question whether the accounts or report comply with the requirements of these Regulations.

(2) The Registrar may give notice to the directors of the company indicating the respects in which it appears that such a question arises or may arise.

(3) The notice must specify a period of not less than one month for the directors to give an explanation of the accounts or report or prepare revised accounts or a revised report.

(4) If at the end of the specified period, or such longer period as the Registrar may allow, it appears to the Registrar that the directors have not–

(a) given a satisfactory explanation of the accounts or report, or

(b) revised the accounts or report so as to comply with the requirements of these Regulations,

the Registrar may apply to the Court.

(5) The provisions of this section apply equally to revised annual accounts and revised directors' reports, in which case they have effect as if the references to revised accounts or reports were references to further revised accounts or reports.

Application to Court

430. Application to Court in respect of defective accounts or reports

(1) An application may be made to the Court–

(a) by the Registrar, after having complied with section 429 (Registrar's notice in respect of accounts or reports), or

(b) by a person authorised by the Registrar for the purposes of this section,

for a declaration that the annual accounts of a company do not comply, or a directors' report does not comply, with the requirements of these Regulations and for an order requiring the directors of the company to prepare revised accounts or a revised report.

(2) Notice of the application, together with a general statement of the matters at issue in the proceedings, shall be given by the applicant to the Registrar for registration.

(3) If the Court orders the preparation of revised accounts, it may give directions as to–

(a) the auditing of the accounts,

(b) the revision of any directors' report, and

(c) the taking of steps by the directors to bring the making of the order to the notice of persons likely to rely on the previous accounts,

and such other matters as the Court thinks fit.

(4) If the Court orders the preparation of a revised directors' report it may give directions as to–

(a) the review of the report by the auditors,

(b) the taking of steps by the directors to bring the making of the order to the notice of persons likely to rely on the previous report, and

(c) such other matters as the Court thinks fit.

(5) If the Court finds that the accounts or report did not comply with the requirements of these Regulations it may order that all or part of–

(a) the costs of and incidental to the application, and

(b) any reasonable expenses incurred by the company in connection with or in consequence of the preparation of revised accounts or a revised report,

(c) are to be borne by such of the directors as were party to the approval of the defective accounts or report.

For this purpose every director of the company at the time of the approval of the accounts or report shall be taken to have been a party to the approval unless he shows that he took all reasonable steps to prevent that approval.

(6) Where the Court makes an order under subsection (5) it shall have regard to whether the directors party to the approval of the defective accounts or report knew or ought to have known that the accounts or report did not comply with the requirements of these Regulations, and it may exclude one or more directors from the order or order the payment of different amounts by different directors.

(7) On the conclusion of proceedings on an application under this section, the applicant must send to the Registrar for registration a copy of the Court order or, as the case may be, give notice to the Registrar that the application has failed or been withdrawn.

(8) The provisions of this section apply equally to revised annual accounts and revised directors' reports, in which case they have effect as if the references to revised accounts or reports were references to further revised accounts or reports.

431. Other persons authorised to apply to the Court

(1) The Registrar may authorise for the purposes of section 430 (application to Court in respect of defective accounts or reports) (a "section 430 authorisation") any person appearing to it–

(a) to have an interest in, and to have satisfactory procedures directed to securing, compliance by companies with the requirements of these Regulations relating to accounts and directors' reports,

(b) to have satisfactory procedures for receiving and investigating complaints about companies' annual accounts and directors' reports, and

(c) otherwise to be a fit and proper person to be authorised.

(2) A person may be authorised generally or in respect of particular classes of case, and different persons may be authorised in respect of different classes of case.

(3) The Registrar may refuse to authorise a person if it considers that his authorisation is unnecessary having regard to the fact that there are one or more other persons who have been or are likely to be authorised.

(4) If the authorised person is an unincorporated association, proceedings brought in, or in connection with, the exercise of any function by the association as an authorised person may be brought by or against the association in the name of a body corporate whose constitution provides for the establishment of the association.

(5) A section 430 authorisation may contain such requirements or other provisions relating to the exercise of functions by the authorised person as appear to the Registrar to be appropriate.

No such authorisation is to be made unless it appears to the Registrar that the person would, if authorised, exercise his functions as an authorised person in accordance with the provisions proposed.

(6) Where authorisation is revoked, the Registrar may make such provision as it thinks fit with respect to pending proceedings.

Power of authorised person to require documents etc.

432. Power of authorised person to require documents, information and explanations

(1) This section applies where it appears to a person who is authorised under section 431 (other persons authorised to apply to the Court) that there is, or may be, a question whether a company's annual accounts or directors' report complies with the requirements of these Regulations.

(2) The authorised person may require any of the persons mentioned in subsection (3) to produce any document, or to provide him with any information or explanations, that he may reasonably require for the purpose of–

(a) discovering whether there are grounds for an application to the Court under section 430 (application to Court in respect of defective accounts or reports), or

(b) deciding whether to make such an application.

(3) Those persons are–

(a) the company,

(b) any officer, employee, or auditor of the company,

(c) any persons who fell within subsection (3)(b) at a time to which the document or information required by the authorised person relates.

(4) If a person fails to comply with such a requirement, the authorised person may apply to the Court.

(5) If it appears to the Court that the person has failed to comply with a requirement under subsection (2), it may order the person to take such steps as it directs for securing that the documents are produced or the information or explanations are provided.

(6) Nothing in this section compels any person to disclose documents or information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(7) In this section ”document” includes information recorded in any form.

433. Restrictions on disclosure of information obtained under compulsory powers

(1) This section applies to information (in whatever form) obtained in pursuance of a requirement or order under section 432 (power of authorised person to require documents etc.) that relates to the private affairs of an individual or to any particular business.

(2) No such information may, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.

(3) This does not apply–

(a) to disclosure permitted by section 434 (permitted disclosure of information obtained under compulsory powers), or

(b) to the disclosure of information that is or has been available to the public from another source.

(4) A person who discloses information in contravention of this section commits a contravention of these Regulations, unless–

(a) he did not know, and had no reason to suspect, that the information had been disclosed under section 432 (power of authorised person to require documents, information and explanations), or

(b) he took all reasonable steps and exercised all due diligence to avoid the commission of the contravention.

(5) A person who commits the contravention referred to in subsection (4) shall be liable to a level 3 fine.

(6) Where a contravention under this section is committed by a body corporate, every officer of the body who is in default also commits the contravention. For this purpose–

(a) any person who purports to act as director, manager or secretary of the body is treated as an officer of the body, and

(b) if the body is a company, any shadow director is treated as an officer of the company.

434. Permitted disclosure of information obtained under compulsory powers

(1) The prohibition in section 433 (restrictions on disclosure of information obtained under compulsory powers) of the disclosure of information obtained in pursuance of a requirement or order under section 432 (power of authorised person to require documents etc.) that relates to the private affairs of an individual or to any particular business has effect subject to the following exceptions.

(2) It does not apply to the disclosure of information for the purpose of facilitating the carrying out by the authorised person of his functions under section 430 (application to Court in respect of defective accounts or reports).

(3) It does not apply to disclosure to–

(a) the Board,

(b) the Registrar, or

(c) the Financial Services Regulator.

(4) It does not apply to disclosure–

(a) for the purpose of assisting a body designated by rules to monitor auditors,

(b) with a view to the institution of, or otherwise for the purposes of, disciplinary proceedings relating to the performance by an accountant or auditor of his professional duties,

(c) for the purpose of enabling or assisting the Board to exercise its functions under any law or regulation applicable to the Abu Dhabi Global Market,

(d) for the purpose of enabling or assisting the Financial Services Regulator to exercise its functions under the Financial Services and Markets Regulations 2015,

(e) for the purpose of enabling or assisting the Registrar to exercise its functions under the Commercial Licensing Regulations 2015.

(5) It does not apply to disclosure to a body exercising functions of a public nature under legislation in any jurisdiction outside the Abu Dhabi Global Market that appear to the authorised person to be similar to his functions under section 430 (application to Court in respect of defective accounts or reports) for the purpose of enabling or assisting that body to exercise those functions.

(6) In determining whether to disclose information to a body in accordance with subsection (5), the authorised person must have regard to the following considerations–

(a) whether the use which the body is likely to make of the information is sufficiently important to justify making the disclosure,

(b) whether the body has adequate arrangements to prevent the information from being used or further disclosed other than–

(i) for the purposes of carrying out the functions mentioned in that subsection, or

(ii) for other purposes substantially similar to those for which information disclosed to the authorised person could be used or further disclosed.

435. Power to amend categories of permitted disclosure

(1) The Board may make rules amending section 434(3), (4) and (5) (permitted disclosure of information obtained under compulsory powers).

(2) Rules under this section must not–

(a) amend subsection (3) of that section (Abu Dhabi Global Market public authorities) by specifying a person unless the person exercises functions of a public nature (whether or not he exercises any other function),

(b) amend subsection (4) of that section (purposes for which disclosure permitted) by adding or modifying a description of disclosure unless the purpose for which the disclosure is permitted is likely to facilitate the exercise of a function of a public nature,

(c) amend subsection (5) of that section (overseas regulatory authorities) so as to have the effect of permitting disclosures to be made to a body other than one that exercises functions of a public nature in a jurisdiction outside the Abu Dhabi Global Market.

436. Liability for false or misleading statements in directors' reports

(1) A director of a company is liable to compensate the company for any loss suffered by it as a result of–

(a) any untrue or misleading statement in a directors' report, or

(b) the omission from a directors' report of anything required to be included in it.

(2) He is so liable only if–

(a) he knew the statement to be untrue or misleading or was reckless as to whether it was untrue or misleading, or

(b) he knew the omission to be dishonest concealment of a material fact.

(3) No person shall be subject to any liability to a person other than the company resulting from reliance, by that person or another, on information in a report to which this section applies.

(4) The reference in subsection (3) to a person being subject to a liability includes a reference to another person being entitled as against him to be granted any civil remedy or to rescind or repudiate an agreement.

(5) This section does not affect liability for a contravention of these Regulations or any other Abu Dhabi Global Market regulations.

Accounting and reporting standards

437. Accounting standards

(1) In this Part "accounting standards" means international accounting standards or such other standard accounting practice as may be prescribed by rules made by the Board.

(2) References in this Part to accounting standards applicable to a company's annual accounts are to such standards as are, in accordance with their terms, relevant to the company's circumstances and to the accounts.

(3) Rules under this section may contain such transitional and other supplementary and incidental provisions as appear to the Board to be appropriate.

CHAPTER 10

SUPPLEMENTARY PROVISIONS

Companies qualifying as medium-sized

438. Companies qualifying as medium-sized: general

(1) A company qualifies as medium-sized in relation to its first financial year if the qualifying conditions are met in that year.

(2) A company qualifies as medium-sized in relation to a subsequent financial year–

(a) if the qualifying conditions are met in that year and the preceding financial year,

(b) if the qualifying conditions are met in that year and the company qualified as medium-sized in relation to the preceding financial year,

(c) if the qualifying conditions were met in the preceding financial year and the company qualified as medium-sized in relation to that year.

(3) The qualifying conditions are met by a company in a year in which it satisfies both of the following requirements–

1. Turnover	Not more than 68 million US dollars
2. Number of employees	Not more than 75

(4) For a period that is a company's financial year but not in fact a year the maximum figures for turnover must be proportionately adjusted.

(5) The number of employees means the average number of persons employed by the company in the year, determined as follows–

(a) find for each month in the financial year the number of persons employed under contracts of service by the company in that month (whether throughout the month or not),

(b) add together the monthly totals, and

(c) divide by the number of months in the financial year.

(6) This section is subject to section 439 (companies qualifying as medium-sized: parent companies).

(7) This Chapter shall not apply to a company that is a restricted scope company.

439. Companies qualifying as medium-sized: parent companies

(1) A parent company qualifies as a medium-sized company in relation to a financial year only if the group headed by it qualifies as a medium-sized group.

(2) A group qualifies as medium-sized in relation to the parent company's first financial year if the qualifying conditions are met in that year.

(3) A group qualifies as medium-sized in relation to a subsequent financial year of the parent company–

(a) if the qualifying conditions are met in that year and the preceding financial year,

(b) if the qualifying conditions are met in that year and the group qualified as medium-sized in relation to the preceding financial year,

(c) if the qualifying conditions were met in the preceding financial year and the group qualified as medium-sized in relation to that year.

(4) The qualifying conditions are met by a group in a year in which it satisfies both of the following requirements–

1. Aggregate turnover	Not more than 68 million US dollars net (or 81.6 million US dollars gross)
2. Aggregate number of employees	Not more than 75

(5) The aggregate figures are ascertained by aggregating the relevant figures determined in accordance with section 438 (companies qualifying as medium-sized: general) for each member of the group.

(6) In relation to the aggregate figures for turnover–

"net" means after any set offs and other adjustments made to eliminate group transactions in accordance with international accounting standards, and

"gross" means without those set offs and other adjustments.

A company may satisfy any relevant requirement on the basis of either the net or the gross figure.

(7) The figures for each subsidiary undertaking shall be those included in its individual accounts for the relevant financial year, that is–

(a) if its financial year ends with that of the parent company, that financial year, and

(b) if not, its financial year ending last before the end of the financial year of the parent company.

If those figures cannot be obtained without disproportionate expense or undue delay, the latest available figures shall be taken.

440. Companies excluded from being treated as medium-sized

(1) A company is not entitled to take advantage of any of the provisions of this Part relating to companies qualifying as medium-sized if it was at any time within the financial year in question–

(a) a public interest entity,

(b) a financial institution,

(c) a member of an ineligible group.

(2) A group is ineligible if any of its members is–

(a) a public interest entity,

(b) a financial institution,

General power to make further provision about accounts and reports

441. General power to make further provision about accounts and reports

(1) The Board may make rules about–

(a) the accounts and reports that companies are required to prepare,

(b) the categories of companies required to prepare accounts and reports of any description,

(c) the form and content of the accounts and reports that companies are required to prepare,

(d) the obligations of companies and others as regards–

(i) the approval of accounts and reports,

(ii) the sending of accounts and reports to members and others,

(iii) the laying of accounts and reports before the company in general meeting,

(iv) the delivery of copies of accounts and reports to the Registrar, and

(v) the publication of accounts and reports.

(2) The rules may amend this Part by adding, altering or repealing provisions.

(3) But they must not amend (other than consequentially)–

(a) section 382 (accounts to give a fair representation), or

(b) the provisions of Chapter 9 (revision of defective accounts and reports).

(4) The rules may impose fines (up to a maximum of level 3) for contraventions of the rules.

CHAPTER 11

SUPPLEMENTARY PROVISIONS

442. Preparation and filing of accounts in other relevant currencies

(1) The amounts set out in the annual accounts of a company shall be shown in United States Dollars and may also be shown in the same accounts translated into any other relevant currency.

(2) When complying with section 415 (duty to file accounts and reports with the Registrar), the directors of a company may deliver to the Registrar an additional copy of the

company's annual accounts in which the amounts have been translated into any other relevant currency.

(3) In both cases–

(a) the amounts must have been translated at the exchange rate prevailing on the date to which the balance sheet is made up, and

(b) that rate must be disclosed in the notes to the accounts.

(4) Subsection (3)(b) does not apply to the individual accounts of a company for a financial year in which the company qualifies as a micro-entity (see sections 373 (companies qualifying as micro-entities) and 374 (companies excluded from being treated as micro-entities)).

(5) For the purposes of sections 410 and 411 (requirements in connection with published accounts) any additional copy of the company's annual accounts delivered to the Registrar under subsection (2) above shall be treated as registrable accounts of the company.

In the case of such a copy, references in those sections to the auditor's report on the company's annual accounts shall be read as references to the auditor's report on the annual accounts of which it is a copy.

443. Power to apply provisions to banking partnerships

(1) The Board may make rules applying to banking partnerships, subject to such exceptions, adaptations and modifications as it considers appropriate, the provisions of this Part (and of rules made under this Part) applying to banking companies.

(2) A "banking partnership" means a partnership which has a Financial Services Permission to carry on the Regulated Activity of Accepting Deposits. But a partnership is not a banking partnership if it has a Financial Services Permission to carry on the Regulated Activity of Accepting Deposits only for the purpose of carrying on another Regulated Activity in accordance with that permission.

444. Meaning of "annual accounts" and related expressions

(1) In this Part a company's "annual accounts", in relation to a financial year, means–

(a) any individual accounts prepared by the company for that year (see section 383 (duty to prepare individual accounts)), and

(b) any group accounts prepared by the company for that year (see sections 388 (option to prepare group accounts) and 389 (duty to prepare group accounts)).

This is subject to section 392 (option to omit individual profit and loss account from annual accounts where information given in notes to the individual balance sheet).

(2) A company's "annual accounts and reports" for a financial year are–

(a) its annual accounts,

(b) the directors' report, and

(c) the auditor's report on those accounts, and the directors' report (unless the company is exempt from audit).

445. Notes to the accounts

(1) Information required by this Part to be given in notes to a company's annual accounts may be contained in the accounts or in a separate document annexed to the accounts.

(2) References in this Part to a company's annual accounts, or to a balance sheet or profit and loss account, include notes to the accounts giving information which is required by any provision of these Regulations or international accounting standards, and required or allowed by any such provision to be given in a note to company accounts.

446. Minor definitions

(1) In this Part–

"group" means a parent undertaking and its subsidiary undertakings,

"included in the consolidation", in relation to group accounts, or "included in consolidated group accounts", means that the undertaking is included in the accounts by the method of full (and not proportional) consolidation, and references to an undertaking excluded from consolidation shall be construed accordingly,

"international accounting standards" means the international accounting standards specified as such in rules made by the Board,

"micro-entity minimum accounting item" means an item of information required by this Part or by rules made by the Board under this Part to be contained in the individual accounts of a company for a financial year in relation to which it qualifies as a micro-entity (see sections 373 (companies qualifying as micro-entities) and 374 (companies excluded from being treated as micro-entities));

"micro-entity provisions" means any provisions of this Part, Part 15 or rules made by the Board under this Part relating specifically to the individual accounts of a company which qualifies as a micro-entity;

"profit and loss account", includes an income statement or other equivalent financial statement required to be prepared by international accounting standards,

"turnover", in relation to a company, means the amounts derived from the provision of goods and services falling within the company's ordinary activities, after deduction of–

(a) trade discounts,

(b) value added tax, and

(c) any other taxes based on the amounts so derived.

(2) In the case of an undertaking not trading for profit, any reference in this Part to a profit and loss account is to an income and expenditure account.

References to profit and loss and, in relation to group accounts, to a consolidated profit and loss account shall be construed accordingly.

PART 15

AUDIT

CHAPTER 1

REQUIREMENT FOR AUDITED ACCOUNTS

Requirement for audited accounts

447. Requirement for audited accounts and public interest entities and financial institutions[16]

(1) A company's annual accounts for a financial year must be audited in accordance with this Part unless the company is exempt from audit under–

section 449 (small companies),

section 452 (subsidiary companies), or

section 455 (dormant companies).

(1A) A company is not entitled to any such exemption if it is licensed to conduct the Controlled Activity of providing company services (as defined in the Commercial Licensing Regulations (Controlled Activities) Rules 2022).

(2) A company is not entitled to any such exemption unless its balance sheet contains a statement by the directors to that effect.

(3) A company is not entitled to exemption under any of the provisions mentioned in subsection (1) unless its balance sheet contains a statement by the directors to the effect that–

(a) the members have not required the company to obtain an audit of its accounts for the year in question in accordance with section 448 (right of members to require audit), and

(b) the directors acknowledge their responsibilities for complying with the requirements of these Regulations with respect to accounting records and the preparation of accounts.

(4) The statement required by subsection (2) or (3) must appear on the balance sheet above the signature required by section 399 (approval and signing of accounts).

(5) A company that is not exempt from audit must appoint an auditor who is eligible for appointment under Part 35 of these Regulations and any Rules made thereunder, including, in the case of public interest entities and financial institutions, satisfying any additional requirements for auditors of such companies.

[16] Amended 2 September 2021
Amended 23 February 2023

(6) In this Part, "public interest entity" and "financial institution" shall have the meaning given to them in section 372 (public interest entities and financial institutions).

(7) This Part does not apply to restricted scope companies who shall be exempt from audit for the purposes of these Regulations.

448. Right of members to require audit

(1) The members of a company that would otherwise be entitled to exemption from audit under any of the provisions mentioned in section 447(1) (exemptions from audit of annual accounts) may by notice under this section require it to obtain an audit of its accounts for a financial year.

(2) The notice must be given by–

(a) members holding shares representing not less in total than 10% of the total number of shares or any class of shares issued by the company, or

(b) if the company does not have a share capital, not less than 10% in number of the members of the company.

(3) The notice may not be given before the financial year to which it relates and must be given not later than one month before the end of that year.

449. Small companies: conditions for exemption from audit

(1) A company that qualifies as a small company in relation to a financial year is exempt from the requirements of these Regulations relating to the audit of accounts for that year.

For the purposes of this section whether a company qualifies as a small company shall be determined in accordance with section 369 (companies qualifying as small).

(2) This section has effect subject to–

section 447(2) and (3) (requirements as to statements to be contained in balance sheet),

section 448 (right of members to require audit),

section 450 (companies excluded from small companies exemption), and

section 451 (availability of small companies exemption in case of group company).

450. Companies excluded from small companies exemption

A company is not entitled to the exemption conferred by section 449 (small companies) if it was at any time within the financial year in question–

(a) a public interest entity, or

(b) a financial institution (other than a FinTech Participant).

451. Availability of small companies exemption in case of group company

(1) A company is not entitled to the exemption conferred by section 449 (small companies) in respect of a financial year during any part of which it was a group company unless–

(a) the group–

(i) qualifies as a small group in relation to that financial year, and

(ii) was not at any time in that year an ineligible group, or

(b) subsection (2) applies.

(2) A company is not excluded by subsection (1) if, throughout the whole of the period or periods during the financial year when it was a group company, it was both a subsidiary undertaking and dormant.

(3) In this section–

(a) "group company" means a company that is a parent company or a subsidiary undertaking, and

(b) "the group", in relation to a group company, means that company together with all its associated undertakings.

For this purpose undertakings are associated if one is a subsidiary undertaking of the other or both are subsidiary undertakings of a third undertaking.

(4) For the purposes of this section–

(a) whether a group qualifies as small shall be determined in accordance with section 370 (companies qualifying as small: parent companies), and

(b) "ineligible group" has the meaning given by section 371(2) (companies excluded from the small companies regime)

(5) The provisions mentioned in subsection (4) apply for the purposes of this section as if all the bodies corporate in the group were companies.

452. Subsidiary companies: conditions for exemption from audit

(1) A company is exempt from the requirements of these Regulations relating to the audit of individual accounts for a financial year if–

(a) it is itself a subsidiary undertaking, and

(b) its parent undertaking is established under the law of the Abu Dhabi Global Market.

(2) Exemption is conditional upon compliance with all of the following conditions–

(a) all members of the company must agree to the exemption in respect of the financial year in question,

(b) the parent undertaking must give a guarantee under section 454 (parent undertaking declaration of guarantee) in respect of that year,

(c) the company must be included in the consolidated accounts drawn up for that year or to an earlier date in that year by the parent undertaking in accordance with international accounting standards,

(d) the parent undertaking must disclose in the notes to the consolidated accounts that the company is exempt from the requirements of these Regulations relating to the audit of individual accounts by virtue of this section, and

(e) the directors of the company must deliver to the Registrar on or before the date that they file the accounts for that year–

(i) a written notice of the agreement referred to in subsection (2)(a),

(ii) the statement referred to in section 454(1),

(iii) a copy of the consolidated accounts referred to in subsection (2)(c),

(iv) a copy of the auditor's report on those accounts, and

(v) a copy of the consolidated annual report drawn up by the parent undertaking.

(3) This section has effect subject to–

section 447(2) and (3) (requirements as to statements contained in balance sheet), and

section 448 (right of members to require audit).

453. Companies excluded from the subsidiary companies audit exemption

A company is not entitled to the exemption conferred by section 452 (subsidiary companies) if it was at any time within the financial year in question–

(a) a company listed on a recognised investment exchange, or

(b) a financial institution.

454. Subsidiary companies audit exemption: parent undertaking declaration of guarantee

(1) A guarantee is given by a parent undertaking under this section when the directors of the subsidiary company deliver to the Registrar a statement by the parent undertaking that it guarantees the subsidiary company under this section.

(2) The statement under subsection (1) must be authenticated by the parent undertaking and must specify–

(a) the name of the parent undertaking and its registered number,

(b) the name and registered number of the subsidiary company in respect of which the guarantee is being given,

(c) the date of the statement, and

(d) the financial year to which the guarantee relates.

(3) A guarantee given under this section has the effect that–

(a) the parent undertaking guarantees all outstanding liabilities to which the subsidiary company is subject at the end of the financial year to which the guarantee relates, until they are satisfied in full, and

(b) the guarantee is enforceable against the parent undertaking by any person to whom the subsidiary company is liable in respect of those liabilities.

455. Dormant companies: conditions for exemption from audit

(1) A company is exempt from the requirements of these Regulations relating to the audit of accounts in respect of a financial year if–

(a) it has been dormant since its formation, or

(b) it has been dormant since the end of the previous financial year and the following conditions are met.

(2) The conditions are that the company–

(a) as regards its individual accounts for the financial year in question–

(i) is entitled to prepare accounts in accordance with the small companies regime (see sections 368 (companies subject to the small companies regime) to 371 (companies excluded from the small companies regime)), and

(ii) is not required to prepare group accounts for that year.

(3) This section has effect subject to–

section 447(2) and (3) (requirements as to statements to be contained in balance sheet),

section 448 (right of members to require audit), and

section 456 (companies excluded from dormant companies exemption).

456. Companies excluded from dormant companies exemption

A company is not entitled to the exemption conferred by section 455 (dormant companies) if it was, at any time within the financial year in question, a financial institution.

CHAPTER 2

APPOINTMENT OF AUDITORS

Private companies

457. Appointment of auditors of private company: general

(1) An auditor or auditors of a private company must be appointed for each financial year of the company, unless the directors reasonably resolve otherwise on the ground that audited accounts are unlikely to be required.

(2) For each financial year for which an auditor or auditors is or are to be appointed (other than the company's first financial year), the appointment must be made before the end of the period of one month beginning with–

(a) the end of the time allowed for sending out copies of the company's annual accounts and reports for the previous financial year (see section 406 (time allowed for sending out copies of accounts and reports)), or

(b) if earlier, the day on which copies of the company's annual accounts and reports for the previous financial year are sent out under section 405 (duty to circulate copies of annual accounts and reports).

This is the "period for appointing auditors".

(3) The directors may appoint an auditor or auditors of the company–

(a) at any time before the company's first period for appointing auditors,

(b) following a period during which the company (being exempt from audit) did not have any auditor, at any time before the company's next period for appointing auditors, or

(c) to fill a casual vacancy in the office of auditor.

(4) The members may appoint an auditor or auditors by ordinary resolution–

(a) during a period for appointing auditors,

(b) if the company should have appointed an auditor or auditors during a period for appointing auditors but failed to do so, or

(c) where the directors had power to appoint under subsection (3) but have failed to make an appointment.

(5) An auditor or auditors of a private company may only be appointed–

(a) in accordance with this section, or

(b) in accordance with section 458 (default power of Registrar).

This is without prejudice to any deemed re-appointment under section 459 (term of office of auditors of private company).

458. Appointment of auditors of private company: default power of Registrar

(1) If a private company fails to appoint an auditor or auditors in accordance with section 457 (appointment of auditors of private company: general), the Registrar may appoint one or more persons to fill the vacancy.

(2) Where subsection (2) of that section applies and the company fails to make the necessary appointment before the end of the period for appointing auditors, the company must within one week of the end of that period give notice to the Registrar of its power having become exercisable.

(3) If a company fails to give the notice required by this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 3 fine.

459. Term of office of auditors of private company

(1) An auditor or auditors of a private company hold office in accordance with the terms of their appointment, subject to the requirements that–

(a) they do not take office until any previous auditor or auditors cease to hold office, and

(b) they cease to hold office at the end of the next period for appointing auditors unless re-appointed.

(2) Where no auditor has been appointed by the end of the next period for appointing auditors, any auditor in office immediately before that time is deemed to be re-appointed at that time, unless–

(a) he was appointed by the directors, or

(b) the company's articles require actual re-appointment, or

(c) the deemed re-appointment is prevented by the members under section 460 (prevention by members of deemed re-appointment of auditor), or

(d) the members have resolved that he should not be re-appointed, or

(e) the directors have resolved that no auditor or auditors should be appointed for the financial year in question.

(3) This is without prejudice to the provisions of this Part as to removal and resignation of auditors.

(4) No account shall be taken of any loss of the opportunity of deemed reappointment under this section in ascertaining the amount of any compensation or damages payable to an auditor on his ceasing to hold office for any reason.

460. Prevention by members of deemed re-appointment of auditor

(1) An auditor of a private company is not deemed to be re-appointed under section 459(2) if the company has received notices under this section from members representing at least the requisite percentage of the total voting rights of all members who would be entitled to vote on a resolution that the auditor should not be re-appointed.

(2) The "requisite percentage" is 5%, or such lower percentage as is specified for this purpose in the company's articles.

(3) A notice under this section–

(a) may be in hard copy or electronic form,

(b) must be authenticated by the person or persons giving it, and

(c) must be received by the company before the end of the accounting reference period immediately preceding the time when the deemed re-appointment would have effect.

461. Appointment of auditors of public company: general

(1) An auditor or auditors of a public company must be appointed for each financial year of the company, unless the directors reasonably resolve otherwise on the ground that audited accounts are unlikely to be required.

(2) For each financial year for which an auditor or auditors is or are to be appointed (other than the company's first financial year), the appointment must be made before the end of the accounts meeting of the company at which the company's annual accounts and reports for the previous financial year are laid.

(3) The directors may appoint an auditor or auditors of the company–

(a) at any time before the company's first accounts meeting,

(b) following a period during which the company (being exempt from audit) did not have any auditor, at any time before the company's next accounts meeting,

(c) to fill a casual vacancy in the office of auditor.

(4) The members may appoint an auditor or auditors by ordinary resolution–

(a) at an accounts meeting,

(b) if the company should have appointed an auditor or auditors at an accounts meeting but failed to do so,

(c) where the directors had power to appoint under subsection (3) but have failed to make an appointment.

(5) An auditor or auditors of a public company may only be appointed–

(a) in accordance with this section, or

(b) in accordance with section 462 (default power of Registrar).

462. Appointment of auditors of public company: default power of Registrar

(1) If a public company fails to appoint an auditor or auditors in accordance with section 461 (appointment of auditors of public company: general), the Registrar may appoint one or more persons to fill the vacancy.

(2) Where subsection (2) of that section applies and the company fails to make the necessary appointment before the end of the accounts meeting, the company must within one week of the end of that meeting give notice to the Registrar of its power having become exercisable.

(3) If a company fails to give the notice required by this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a fine of up to level 5.

463. Term of office of auditors of public company

(1) The auditor or auditors of a public company hold office in accordance with the terms of their appointment, subject to the requirements that–

(a) they do not take office until the previous auditor or auditors have ceased to hold office, and

(b) they cease to hold office at the conclusion of the accounts meeting next following their appointment, unless re-appointed.

(2) This is without prejudice to the provisions of this Part as to removal and resignation of auditors.

464. Fixing of auditor's remuneration

(1) The remuneration of an auditor appointed by the members of a company must be fixed by the members by ordinary resolution or in such manner as the members may by ordinary resolution determine.

(2) The remuneration of an auditor appointed by the directors of a company must be fixed by the directors.

(3) The remuneration of an auditor appointed by the Registrar must be fixed by the Registrar.

(4) For the purposes of this section "remuneration" includes sums paid in respect of expenses.

(5) This section applies in relation to benefits in kind as to payments of money.

465. Disclosure of terms of audit appointment

(1) The Board may make rules for securing the disclosure of the terms on which a company's auditor is appointed, remunerated or performs his duties.

Nothing in the following provisions of this section affects the generality of this power.

(2) The rules may–

(a) require disclosure of–

(i) a copy of any terms that are in writing, and

(ii) a written memorandum setting out any terms that are not in writing,

(b) require disclosure to be at such times, in such places and by such means as are specified in the rules

(c) require the place and means of disclosure to be stated–

(i) in a note to the company's annual accounts (in the case of its individual accounts) or in such manner as is specified in the rules (in the case of group accounts),

(ii) in the directors' report, or

(iii) in the auditor's report on the company's annual accounts.

(3) The provisions of this section apply to a variation of the terms mentioned in subsection (1) as they apply to the original terms.

466. Disclosure of services provided by auditor or associates and related remuneration

(1) The Board may make rules for securing the disclosure of–

(a) the nature of any services provided for a company by the company's auditor (whether in his capacity as auditor or otherwise) or by his associates,

(b) the amount of any remuneration received or receivable by a company's auditor, or his associates, in respect of any such services.

Nothing in the following provisions of this section affects the generality of this power.

(2) The rules may provide–

(a) for disclosure of the nature of any services provided to be made by reference to any class or description of services specified in the rules (or any combination of services, however described),

(b) for the disclosure of amounts of remuneration received or receivable in respect of services of any class or description specified in the rules (or any combination of services, however described),

(c) for the disclosure of separate amounts so received or receivable by the company's auditor or any of his associates, or of aggregate amounts so received or receivable by all or any of those persons.

(3) The rules may–

(a) provide that "remuneration" includes sums paid in respect of expenses,

(b) apply to benefits in kind as well as to payments of money, and require the disclosure of the nature of any such benefits and their estimated money value,

(c) apply to services provided for associates of a company as well as to those provided for a company,

(d) define "associate" in relation to an auditor and a company respectively.

(4) The rules may provide that any disclosure required by the rules is to be made–

(a) in a note to the company's annual accounts (in the case of its individual accounts) or in such manner as is specified in the rules (in the case of group accounts),

(b) in the directors' report, or

(c) in the auditor's report on the company's annual accounts.

(5) If the rules provide that any such disclosure is to be made as mentioned in subsection (4)(a) or (b), the rules may require the auditor to supply the directors of the company with any information necessary to enable the disclosure to be made.

CHAPTER 3

FUNCTIONS OF AUDITOR

Auditor's report

467. Auditor's report on company's annual accounts

(1) A company's auditor must make a report to the company's members on all annual accounts of the company of which copies are, during his tenure of office–

(a) in the case of a private company, to be sent out to members under section 405 (duty to circulate copies of annual accounts and reports),

(b) in the case of a public company, to be laid before the company in general meeting under section 413 (public companies: laying of accounts and reports before general meeting).

(2) The auditor's report must include–

(a) an introduction identifying the annual accounts that are the subject of the audit and the financial reporting framework that has been applied in their preparation, and

(b) a description of the scope of the audit identifying the auditing standards in accordance with which the audit was conducted.

(3) The report must state clearly whether, in the auditor's opinion, the annual accounts–

(a) fairly present–

(i) in the case of an individual balance sheet, the state of affairs of the company as at the end of the financial year,

(ii) in the case of an individual profit and loss account, the profit or loss of the company for the financial year,

(iii) in the case of group accounts, the state of affairs as at the end of the financial year and of the profit or loss for the financial year of the undertakings included in the consolidation as a whole, so far as concerns members of the company,

(b) have been properly prepared in accordance with the relevant financial reporting framework, and

(c) have been prepared in accordance with the requirements of these Regulations.

Expressions used in this subsection or subsection (4) that are defined for the purposes of Part 14 (see sections 437 (accounting standards), 444 (meaning of "annual accounts" and related expressions) and 446 (minor definitions)) have the same meaning as in that Part.

(4) The following provisions apply to the auditors of a company which qualifies as a micro-entity in relation to a financial year (see sections 373 (companies qualifying as micro-entities) and 374 (companies excluded from being treated as micro-entities)) in their

consideration of whether the individual accounts of the company for that year give a fair representation as mentioned in subsection (3)(a)–

(a) where the accounts comprise only micro-entity minimum accounting items, the auditors must disregard any provision of an accounting standard which would require the accounts to contain information additional to those items,

(b) in relation to a micro-entity minimum accounting item contained in the accounts, the auditors must disregard any provision of an accounting standard which would require the accounts to contain further information in relation to that item, and

(c) where the accounts contain an item of information additional to the micro-entity minimum accounting items, the auditors must have regard to any provision of an accounting standard which relates to that item.

(5) The auditor's report–

(a) must be either unqualified or qualified, and

(b) must include a reference to any matters to which the auditor wishes to draw attention by way of emphasis without qualifying the report.

468. Auditor's report on directors' report

The auditor must state in his report on the company's annual accounts whether in his opinion the information given in the directors' report for the financial year for which the accounts are prepared is consistent with those accounts.

469. Duties of auditor

(1) A company's auditor, in preparing his report, must carry out such investigations as will enable him to form an opinion as to–

(a) whether adequate accounting records have been kept by the company and returns adequate for their audit have been received from branches not visited by him, and

(b) whether the company's individual accounts are in agreement with the accounting records and returns.

(2) If the auditor is of the opinion–

(a) that adequate accounting records have not been kept, or that returns adequate for their audit have not been received from branches not visited by him, or

(b) that the company's individual accounts are not in agreement with the accounting records and returns,

the auditor shall state that fact in his report.

(3) If the auditor fails to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of his audit, he shall state that fact in his report.

(4) If–

(a) the requirements of rules made by the Board under section 397 (information about directors' benefits: remuneration, pensions, end-of-service gratuity payments and compensation for loss of office) are not complied with in the annual accounts,

(b) the auditor must include in his report, so far as he is reasonably able to do so, a statement giving the required particulars.

(5) If the directors of the company–

(a) have prepared accounts in accordance with the small companies regime, or

(b) have taken advantage of small companies exemption in preparing the directors' report,

and in the auditor's opinion they were not entitled to do so, the auditor shall state that fact in his report.

470. Auditor's general right to information

(1) An auditor of a company–

(a) has a right of access at all times to the company's books, accounts and vouchers (in whatever form they are held), and

(b) may require any of the following persons to provide him with such information or explanations as he thinks necessary for the performance of his duties as auditor.

(2) Those persons are–

(a) any officer or employee of the company,

(b) any person holding or accountable for any of the company's books, accounts or vouchers,

(c) any subsidiary undertaking of the company which is a body corporate incorporated in the Abu Dhabi Global Market,

(d) any officer, employee or auditor of any such subsidiary undertaking or any person holding or accountable for any books, accounts or vouchers of any such subsidiary undertaking,

(e) any person who fell within any of subsection (2)(a) to (d) at a time to which the information or explanations required by the auditor relates or relate.

(3) Nothing in this section compels a person to disclose information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

471. Auditor's right to information from overseas subsidiary undertakings

(1) Where a parent company has a subsidiary undertaking that is not a body corporate incorporated in the Abu Dhabi Global Market, the auditor of the parent company may require it to obtain from any of the following persons such information or explanations as he may reasonably require for the purposes of his duties as auditor.

(2) Those persons are–

(a) the undertaking,

(b) any officer, employee or auditor of the undertaking,

(c) any person holding or accountable for any of the undertaking's books, accounts or vouchers,

(d) any person who fell within subsection (2)(b) or (c) at a time to which the information or explanations relates or relate.

(3) If so required, the parent company must take all such steps as are reasonably open to it to obtain the information or explanations from the person concerned.

(4) Nothing in this section compels a person to disclose information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

472. Auditor's rights to information: contraventions

(1) A person commits a contravention of these Regulations who knowingly or recklessly makes to an auditor of a company a statement (oral or written) that–

(a) conveys or purports to convey any information or explanations which the auditor requires, or is entitled to require, under section 470 (auditor's general right to information), and

(b) is misleading, false or deceptive in a material particular.

(2) A person who commits the contravention referred to in subsection (1) shall be liable to a fine of up to level 5.

(3) A person who fails to comply with a requirement under section 470 (auditor's general right to information) without delay commits a contravention of these Regulations unless it was not reasonably practicable for him to provide the required information or explanations.

(4) If a parent company fails to comply with section 471 (auditor's right to information from overseas subsidiary undertakings), a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits the contravention referred to in subsection (3) shall be liable to a fine of up to level 4.

(6) A person who commits the contravention referred to in subsection (4) shall be liable to a level 3 fine.

(7) Nothing in this section affects any right of an auditor to apply for an injunction to enforce any of his rights under section 470 (general right to information) or 471 (right to information from overseas subsidiary undertakings).

473. Auditor's rights in relation to resolutions and meetings[17]

(1) In relation to a written resolution proposed to be agreed to by a private company, the company's auditor is entitled to receive all such communications relating to the resolution as, by virtue of any provision of Chapter 2 of Part 13 of these Regulations, are required to be supplied to a member of the company.

(2) A company's auditor is entitled–

(a) to receive all notices of, and other communications relating to, any general meeting which a member of the company is entitled to receive,

(b) to attend any general meeting of the company, and

(c) to be heard at any general meeting which he attends on any part of the business of the meeting which concerns him as auditor.

(3) The right of the company's auditor to attend or be heard at a meeting is exercisable by an individual authorised by the firm in writing to act as its representative at the meeting.

474. Signature of auditor's report

The auditor's report must state the name of the auditor and be signed and dated by the senior auditor in his own name, for and on behalf of the auditor.

475. Senior auditor[18]

(1) The senior auditor means the individual appointed by the audit firm as the audit principal in relation to the audit in accordance with Rules made by the Registrar under Part 35 of these Regulations.

(2) The senior auditor must be eligible for appointment as audit principal of the company in question, including, in the case of public interest entities and financial institutions, satisfying any additional requirements for audit principals of such companies.

476. Names to be stated in published copies of auditor's report[19]

(1) Every copy of the auditor's report that is published by or on behalf of the company must–

(a) state the name of the auditor and the name of the person who signed it as senior auditor, or

(b) if the conditions in section 477 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Board in accordance with that section.

(2) For the purposes of this section a company is regarded as publishing the report if it publishes, issues or circulates it or otherwise makes it available for public inspection in a manner calculated to invite members of the public generally, or any class of members of the public, to read it.

[17] Amended 2 September 2021
[18] Amended 2 September 2021
[19] Amended 2 September 2021

(3) If a copy of the auditor's report is published without the statement required by this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 3 fine.

477. Circumstances in which names may be omitted[20]

(1) The auditor's name and the name of the person who signed the report as senior auditor, may be omitted from–

(a) published copies of the report, and

(b) the copy of the report delivered to the Registrar under Chapter 8 of Part 14 (filing of accounts and reports),

(c) if the following conditions are met.

(2) The conditions are that the company–

(a) considering on reasonable grounds that statement of the name would create or be likely to create a serious risk that the auditor or senior auditor, or any other person, would be subject to violence or intimidation, has resolved that the name should not be stated, and

(b) has given notice of the resolution to the Registrar, stating–

(i) the name and registered number of the company,

(ii) the financial year of the company to which the report relates, and

(iii) the name of the auditor and the name of the person who signed the report as senior auditor.

478. Contraventions in connection with auditor's report

(1) A person to whom this section applies commits a contravention of these Regulations if he knowingly or recklessly causes a report under section 467 (auditor's report on company's annual accounts) to include any matter that is misleading, false or deceptive in a material particular.

(2) A person to whom this section applies commits a contravention of these Regulations if he knowingly or recklessly causes such a report to omit a statement required by–

(a) section 469(2)(b) (statement that company's accounts do not agree with accounting records and returns),

(b) section 469(3) (statement that necessary information and explanations not obtained), or

(c) section 469(5) (statement that directors wrongly took advantage of exemption from obligation to prepare group accounts).

[20] Amended 2 September 2021

(3) This section applies to any director, member, employee or agent of the firm who is eligible for appointment as auditor of the company.

(4) A person who commits the contraventions referred to in subsection (1) and (2) shall be liable to a fine of up to level 5.

CHAPTER 4

REMOVAL, RESIGNATION, ETC. OF AUDITORS

Removal of auditor

479. Resolution removing auditor from office

(1) The members of a company may remove an auditor from office at any time.

(2) This power is exercisable only–

(a) by ordinary resolution at a meeting and in accordance with section 480 (special notice required for resolution removing auditor from office), or

(b) in the case of a company with only one member, by written resolution or a decision taken as mentioned in section 362 (records of decisions by sole member).

(3) Nothing in this section is to be taken as depriving the person removed of compensation or damages payable to him in respect of the termination–

(a) of his appointment as auditor, or

(b) of any appointment terminating with that as auditor.

(4) An auditor may not be removed from office before the expiration of his term of office except by resolution under this section.

480. Special notice required for resolution removing auditor from office

(1) Special notice is required for a resolution at a general meeting of a company removing an auditor from office.

(2) On receipt of notice of such an intended resolution the company must immediately send a copy of it to the auditor proposed to be removed.

(3) The auditor proposed to be removed may make with respect to the intended resolution representations in writing to the company (not exceeding a reasonable length) and request their notification to members of the company.

(4) The company must (unless the representations are received by it too late for it to do so)–

(a) in any notice of the resolution given to members of the company, state the fact of the representations having been made, and

(b) send a copy of the representations to every member of the company to whom notice of the meeting is or has been sent.

(5) If a copy of any such representations is not sent out as required because received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the representations be read out at the meeting.

(6) Copies of the representations need not be sent out and the representations need not be read at the meeting if, on the application either of the company or of any other person claiming to be aggrieved, the Court is satisfied that the auditor is using the provisions of this section to secure needless publicity for defamatory matter.

The Court may order the company's costs on the application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.

481. Notice to Registrar of resolution removing auditor from office

(1) Where a resolution is passed or a decision is taken under section 479 (resolution or decision removing auditor from office), the company must give notice of that fact to the Registrar within 14 days.

(2) If a company fails to give the notice required by this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of it who is in default.

(3) A person who commits the contravention referred to in subsection (2) shall be liable to a level 2 fine.

482. Rights of auditor who has been removed from office

(1) An auditor who has been removed by resolution under section 479 (resolution or decision removing auditor from office) has, notwithstanding his removal, the rights conferred by section 473(2) (auditor's rights in relation to resolutions and meetings) in relation to any general meeting of the company–

(a) at which his term of office would otherwise have expired, or

(b) at which it is proposed to fill the vacancy caused by his removal.

(2) In such a case the references in that section to matters concerning the auditor as auditor shall be construed as references to matters concerning him as a former auditor.

483. Failure to re-appoint auditor: special procedure required for written resolution

(1) This section applies where a resolution is proposed as a written resolution of a private company with more than one member whose effect would be to appoint a person as auditor in place of a person (the "outgoing auditor") whose term of office has expired, or is to expire, at the end of the period for appointing auditors.

(2) The following provisions apply if–

(a) no period for appointing auditors has ended since the outgoing auditor ceased to hold office, or

(b) such a period has ended and an auditor or auditors should have been appointed but were not.

(3) The company must send a copy of the proposed resolution to the person proposed to be appointed and to the outgoing auditor.

(4) The outgoing auditor may, within 14 days after receiving the notice, make with respect to the proposed resolution representations in writing to the company (not exceeding a reasonable length) and request their circulation to members of the company.

(5) The company must circulate the representations together with the copy or copies of the resolution circulated in accordance with section 308 (circulation of written resolutions proposed by directors) or section 310 (circulation of written resolutions proposed by members).

(6) Where subsection (5) applies–

(a) the period allowed under section 310(3) for service of copies of the proposed resolution is one month instead of 21 days, and

(b) the provisions of section 310(5) and (6) (contraventions) apply in relation to a failure to comply with that subsection as in relation to a default in complying with that section.

(7) Copies of the representations need not be circulated if, on the application either of the company or of any other person claiming to be aggrieved, the Court is satisfied that the auditor is using the provisions of this section to secure needless publicity for defamatory matter.

The Court may order the company's costs on the application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.

(8) If any requirement of this section is not complied with, the resolution is ineffective.

484. Failure to re-appoint auditor: special notice required for resolution at general meeting

(1) This section applies to a resolution at a general meeting of a company with more than one member whose effect would be to appoint a person as auditor in place of a person (the "outgoing auditor") whose term of office has ended, or is to end–

(a) in the case of a private company, at the end of the period for appointing auditors,

(b) in the case of a public company, at the end of the next accounts meeting.

(2) Special notice is required of such a resolution if–

(a) in the case of a private company–

(i) no period for appointing auditors has ended since the outgoing auditor ceased to hold office, or

(ii) such a period has ended and an auditor or auditors should have been appointed but were not,

(b) in the case of a public company–

(i) there has been no accounts meeting of the company since the outgoing auditor ceased to hold office, or

(ii) there has been an accounts meeting at which an auditor or auditors should have been appointed but were not.

(3) On receipt of notice of such an intended resolution the company shall forthwith send a copy of it to the person proposed to be appointed and to the outgoing auditor.

(4) The outgoing auditor may make with respect to the intended resolution representations in writing to the company (not exceeding a reasonable length) and request their notification to members of the company.

(5) The company must (unless the representations are received by it too late for it to do so)–

(a) in any notice of the resolution given to members of the company, state the fact of the representations having been made, and

(b) send a copy of the representations to every member of the company to whom notice of the meeting is or has been sent.

(6) If a copy of any such representations is not sent out as required because received too late or because of the company's default, the outgoing auditor may (without prejudice to his right to be heard orally) require that the representations be read out at the meeting.

(7) Copies of the representations need not be sent out and the representations need not be read at the meeting if, on the application either of the company or of any other person claiming to be aggrieved, the Court is satisfied that the auditor is using the provisions of this section to secure needless publicity for defamatory matter.

The Court may order the company's costs on the application to be paid in whole or in part by the outgoing auditor, notwithstanding that he is not a party to the application.

485. Resignation of auditor

(1) An auditor of a company may resign his office by depositing a notice in writing to that effect at the company's registered office.

(2) The notice is not effective unless it is accompanied by the statement required by section 488 (statement by auditor to be deposited with company).

(3) An effective notice of resignation operates to bring the auditor's term of office to an end as of the date on which the notice is deposited or on such later date as may be specified in it.

486. Notice to Registrar of resignation of auditor

(1) Where an auditor resigns the company must within 14 days of the deposit of a notice of resignation send a copy of the notice to the Registrar of companies.

(2) If default is made in complying with this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who commits the contravention referred to in subsection (2) shall be liable to a level 2 fine.

487. Rights of resigning auditor

(1) This section applies where an auditor's notice of resignation is accompanied by a statement of the circumstances connected with his resignation (see section 488 (statement by auditor to be deposited with company).

(2) A resigning auditor may deposit with the notice a signed requisition calling on the directors of the company forthwith duly to convene a general meeting of the company for the purpose of receiving and considering such explanation of the circumstances connected with his resignation as he may wish to place before the meeting.

(3) A resigning auditor may request the company to circulate to its members–

(a) before the meeting convened on his requisition, or

(b) before any general meeting at which his term of office would otherwise have expired or at which it is proposed to fill the vacancy caused by his resignation,

a statement in writing (not exceeding a reasonable length) of the circumstances connected with his resignation.

(4) The company must (unless the statement is received too late for it to comply)–

(a) in any notice of the meeting given to members of the company, state the fact of the statement having been made, and

(b) send a copy of the statement to every member of the company to whom notice of the meeting is or has been sent.

(5) The directors must within 21 days from the date of the deposit of a requisition under this section proceed duly to convene a meeting for a day not more than one month after the date on which the notice convening the meeting is given.

(6) If default is made in complying with subsection (5), every director who failed to take all reasonable steps to secure that a meeting was convened commits a contravention of these Regulations.

(7) A person who commits the contravention referred to in subsection (6) shall be liable to a level 3 fine.

(8) If a copy of the statement mentioned above is not sent out as required because received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the statement be read out at the meeting.

(9) Copies of a statement need not be sent out and the statement need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the Court is satisfied that the auditor is using the provisions of this section to secure needless publicity for defamatory matter.

The Court may order the company's costs on such an application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.

(10) An auditor who has resigned has, notwithstanding his resignation, the rights conferred by section 473(2) (auditor's rights in relation to resolutions and meetings) in relation to any such general meeting of the company as is mentioned in subsection (3)(a) or (b) above. In such a case the references in that section to matters concerning the auditor as auditor shall be construed as references to matters concerning him as a former auditor.

488. Statement by auditor to be deposited with company

(1) Where an auditor of a company ceases for any reason to hold office, he must deposit at the company's registered office a statement of the circumstances connected with his ceasing to hold office, unless he considers that there are no circumstances in connection with his ceasing to hold office that need to be brought to the attention of members or creditors of the company.

(2) If he considers that there are no circumstances in connection with his ceasing to hold office that need to be brought to the attention of members or creditors of the company, he must deposit at the company's registered office a statement to that effect.

(3) The statement required by this section must be deposited–

(a) in the case of resignation, along with the notice of resignation,

(b) in the case of failure to seek re-appointment, not less than 14 days before the end of the time allowed for next appointing an auditor,

(c) in any other case, not later than the end of the period of 14 days beginning with the date on which he ceases to hold office.

(4) A person ceasing to hold office as auditor who fails to comply with this section commits a contravention of these Regulations.

(5) A person does not commit the contravention referred to in subsection (4) if he shows that he took all reasonable steps and exercised all due diligence to avoid the commission of the contravention.

(6) A person who commits the contravention referred to in subsection (4) shall be liable to a fine of up to level 4.

(7) Where a contravention under this section is committed by a body corporate, every officer of the body who is in default also commits the contravention.

For this purpose–

(a) any person who purports to act as director, manager or secretary of the body is treated as an officer of the body, and

(b) if the body is a company, any shadow director is treated as an officer of the company.

489. Company's duties in relation to statement

(1) This section applies where the statement deposited under section 488 (statement by auditor to be deposited with company) states the circumstances connected with the auditor's ceasing to hold office.

(2) The company must within 14 days of the deposit of the statement either–

(a) send a copy of it to every person who under section 405 (duty to circulate copies of annual accounts and reports) is entitled to be sent copies of the accounts, or

(b) apply to the Court.

(3) If it applies to the Court, the company must notify the auditor of the application.

(4) If the Court is satisfied that the auditor is using the provisions of section 488 (statement by auditor to be deposited with company) to secure needless publicity for defamatory matter–

(a) it shall direct that copies of the statement need not be sent out, and

(b) it may further order the company's costs on the application to be paid in whole or in part by the auditor, even if he is not a party to the application.

The company must within 14 days of the Court's decision send to the persons mentioned in subsection (2)(a) a statement setting out the effect of the order.

(5) If no such direction is made the company must send copies of the statement to the persons mentioned in subsection (2)(a) within 14 days of the Court's decision or, as the case may be, of the discontinuance of the proceedings.

(6) In the event of default in complying with this section a contravention of these Regulations is committed by every officer of the company who is in default.

(7) A person does not commit the contravention referred to in subsection (6) if he shows that he took all reasonable steps and exercised all due diligence to avoid the commission of the contravention.

(8) A person who commits the contravention referred to in subsection (6) shall be liable to a level 3 fine.

490. Copy of statement to be sent to Registrar

(1) Unless within 21 days beginning with the day on which he deposited the statement under section 488 (statement by auditor to be deposited with company) the auditor receives notice of an application to the Court under section 489 (company's duties in relation to statement), he must within a further seven days send a copy of the statement to the Registrar.

(2) If an application to the Court is made under section 489 (company's duties in relation to statement) and the auditor subsequently receives notice under subsection (3) of that section, he must within seven days of receiving the notice send a copy of the statement to the Registrar.

(3) An auditor who fails to comply with subsection (1) or (2) commits a contravention of these Regulations.

(4) A person does not commit the contravention referred to in subsection (3) if he shows that he took all reasonable steps and exercised all due diligence to avoid the commission of the contravention.

(5) A person who commits the contravention referred to in subsection (3) shall be liable to a level 2 fine.

(6) Where a contravention under this section is committed by a body corporate, every officer of the body who is in default also commits the contravention.

For this purpose–

(a) any person who purports to act as director, manager or secretary of the body is treated as an officer of the body, and

(b) if the body is a company, any shadow director is treated as an officer of the company.

491. Duty of auditor to notify the Registrar[21]

(1) Where–

(a) in the case of a major audit, an auditor ceases for any reason to hold office, or

(b) in the case of an audit that is not a major audit, an auditor ceases to hold office before the end of their term of office,

(c) the auditor ceasing to hold office must notify the Registrar.

(2) The notice must–

(a) inform the Registrar that they have ceased to hold office, and

(b) be accompanied by a copy of the statement deposited at the company's registered office in accordance with section 488 (statement by auditor to be deposited with company).

(3) If the statement so deposited is to the effect that they consider that there are no circumstances in connection with their ceasing to hold office that need to be brought to the attention of members or creditors of the company, the notice must also be accompanied by a statement of the reasons for ceasing to hold office.

(4) The auditor must comply with this section–

(a) in the case of a major audit, at the same time as they deposit a statement at the company's registered office in accordance with section 488 (statement by auditor to be deposited with company),

(b) in the case of an audit that is not a major audit, at such time (not being earlier than the time mentioned in subsection (4)(a)) as the appropriate audit authority or the Registrar may require.

(5) In this section, "major audit" means an audit conducted under this Part in respect of-

(a) a listed company; and

(b) any other person in whose financial condition there is a major public interest.

(6) In determining whether an audit is a major audit within subsection 5(b), regard shall be had to any guidance issued by the Registrar.

(7) An auditor ceasing to hold office as auditor who fails to comply with this section commits a contravention of these Regulations.

(8) A contravention is committed by–

(a) the firm, and

(b) every officer of the firm who is in default.

(9) An auditor and any officer of the auditor does not commit the contravention referred to in subsection (7) if they show that they took all reasonable steps and exercised all due diligence to avoid the commission of the contravention.

[21] Amended 2 September 2021

(10) An auditor who commits the contravention referred to in subsection (7) shall be liable to a level 2 fine.

492. Effect of casual vacancies

If an auditor ceases to hold office for any reason, any surviving or continuing auditor or auditors may continue to act.

CHAPTER 5

AUDITORS' LIABILITY

Voidness of provisions protecting auditors from liability

493. Voidness of provisions protecting auditors from liability

(1) This section applies to any provision–

(a) for exempting an auditor of a company (to any extent) from any liability that would otherwise attach to him in connection with any negligence, default, breach of duty or breach of trust in relation to the company occurring in the course of the audit of accounts, or

(b) by which a company directly or indirectly provides an indemnity (to any extent) for an auditor of the company, or of an associated company, against any liability attaching to him in connection with any negligence, default, breach of duty or breach of trust in relation to the company of which he is auditor occurring in the course of the audit of accounts.

(2) Any such provision is void, except as permitted by–

(a) section 494 (indemnity for costs of successfully defending proceedings), or

(b) sections 495 to 497 (liability limitation agreements).

(3) This section applies to any provision, whether contained in a company's articles or in any contract with the company or otherwise.

(4) For the purposes of this section companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

494. Indemnity for costs of successfully defending proceedings

Section 493 (general voidness of provisions protecting auditors from liability) does not prevent a company from indemnifying an auditor against any liability incurred by him in defending proceedings (whether civil or criminal) in which judgment is given in his favour or he is acquitted.

495. Liability limitation agreements

(1) A "liability limitation agreement" is an agreement that purports to limit the amount of a liability owed to a company by its auditor in respect of any negligence, default, breach of duty or breach of trust, occurring in the course of the audit of accounts, of which the auditor may be guilty in relation to the company.

(2) Section 493 (general voidness of provisions protecting auditors from liability) does not affect the validity of a liability limitation agreement that–

(a) complies with section 496 (terms of liability limitation agreement) and of any rules made by the Board under that section, and

(b) is authorised by the members of the company (see section 497 (authorisation of agreement by members of the company)).

(3) Such an agreement is effective to the extent provided by section 498 (effect of liability limitation agreement).

496. Terms of liability limitation agreement

(1) A liability limitation agreement–

(a) must not apply in respect of acts or omissions occurring in the course of the audit of accounts for more than one financial year, and

(b) must specify the financial year in relation to which it applies.

(2) The Board may make rules–

(a) requiring liability limitation agreements to contain specified provisions or provisions of a specified description, and

(b) prohibiting liability limitation agreements from containing specified provisions or provisions of a specified description.

"Specified" here means specified in the rules.

(3) Without prejudice to the generality of the power conferred by subsection (2), that power may be exercised with a view to preventing adverse effects on competition.

(4) Subject to the preceding provisions of this section, it is immaterial how a liability limitation agreement is framed.

In particular, the limit on the amount of the auditor's liability need not be a sum of money, or a formula, specified in the agreement.

497. Authorisation of agreement by members of the company

(1) A liability limitation agreement is authorised by the members of the company if it has been authorised under this section and that authorisation has not been withdrawn.

(2) A liability limitation agreement between a private company and its auditor may be authorised–

(a) by the company passing a resolution, before it enters into the agreement, waiving the need for approval,

(b) by the company passing a resolution, before it enters into the agreement, approving the agreement's principal terms, or

(c) by the company passing a resolution, after it enters into the agreement, approving the agreement.

(3) A liability limitation agreement between a public company and its auditor may be authorised–

(a) by the company passing a resolution in general meeting, before it enters into the agreement, approving the agreement's principal terms, or

(b) by the company passing a resolution in general meeting, after it enters into the agreement, approving the agreement.

(4) The "principal terms" of an agreement are terms specifying, or relevant to the determination of–

(a) the kind (or kinds) of acts or omissions covered,

(b) the financial year to which the agreement relates, or

(c) the limit to which the auditor's liability is subject.

(5) Authorisation under this section may be withdrawn by the company passing an ordinary resolution to that effect–

(a) at any time before the company enters into the agreement, or

(b) if the company has already entered into the agreement, before the beginning of the financial year to which the agreement relates.

Subsection (5)(b) has effect notwithstanding anything in the agreement.

498. Effect of liability limitation agreement

(1) A liability limitation agreement is not effective to limit the auditor's liability to less than such amount as is fair and reasonable in all the circumstances of the case having regard (in particular) to–

(a) the auditor's responsibilities under this Part,

(b) the nature and purpose of the auditor's contractual obligations to the company, and

(c) the professional standards expected of him.

(2) A liability limitation agreement that purports to limit the auditor's liability to less than the amount mentioned in subsection (1) shall have effect as if it limited his liability to that amount.

(3) In determining what is fair and reasonable in all the circumstances of the case no account is to be taken of–

(a) matters arising after the loss or damage in question has been incurred, or

(b) matters (whenever arising) affecting the possibility of recovering compensation from other persons liable in respect of the same loss or damage.

499. Disclosure of agreement by company

(1) A company which has entered into a liability limitation agreement must make such disclosure in connection with the agreement as may be required under rules made by the Board.

(2) The rules may provide, in particular, that any disclosure required by the rules shall be made–

(a) in a note to the company's annual accounts (in the case of its individual accounts) or in such manner as is specified in the rules (in the case of group accounts), or

(b) in the directors' report.

CHAPTER 6

SUPPLEMENTARY PROVISIONS

500. Minor definitions

In this Part–

"qualified", in relation to an auditor's report (or a statement contained in an auditor's report), means that the report or statement does not state the auditor's unqualified opinion that the accounts have been properly prepared in accordance with these Regulations or, in the case of an undertaking not required to prepare accounts in accordance with these Regulations, under any corresponding legislation under which it is required to prepare accounts,

"turnover", in relation to a company, means the amounts derived from the provision of goods and services falling within the company's ordinary activities, after deduction of–

(a) trade discounts,

(b) value added tax, and

(c) any other taxes based on the amounts so derived.

PART 16

A COMPANY'S SHARE CAPITAL

Chapter 1

SHARES AND SHARE CAPITAL OF A COMPANY

Shares

501. Shares and the nature of shares

(1) In these Regulations "share", in relation to a company, means a share in the company's share capital.

(2) The shares or other interest of a member in a company are personal property and are not in the nature of real estate.

(3) Shares in a limited company have no nominal value.

502. Numbering of shares

(1) Each share in a company having a share capital must be distinguished by its appropriate number, except in the following circumstances.

(2) If at any time-

(a) all the issued shares in a company are fully paid up and rank *pari passu* for all purposes, or

(b) all the issued shares of a particular class in a company are fully paid up and rank *pari passu* for all purposes,

none of those shares need thereafter have a distinguishing number so long as it remains fully paid up and ranks *pari passu* for all purposes with all shares of the same class for the time being issued and fully paid up.

503. Transferability of shares

(1) The shares or other interest of any member in a company are transferable in accordance with the company's articles.

(2) See Part 20 of these Regulations generally as regards share transfers.

504. Companies having a share capital

References in these Regulations to a company having a share capital are to a company that has power under its constitution to issue shares.

505. Issued and allotted share capital

(1) References in these Regulations-

(a) to "issued share capital" are to shares of a company that have been issued,

(b) to "allotted share capital" are to shares of a company that have been allotted.

(2) References in these Regulations to issued or allotted shares, or to issued or allotted share capital, include shares taken on the formation of the company by the initial shareholders.

506. Called-up share capital

In these Regulations-

"called-up share capital", in relation to a company, means so much of its share capital as equals the aggregate amount of the calls made on its shares (whether or not those calls have been paid), together with-

(a) any share capital paid up without being called, and

(b) any share capital to be paid on a specified future date under the articles, the terms of allotment of the relevant shares or any other arrangements for payment of those shares, and

"uncalled share capital" is to be construed accordingly.

507. Equity share capital

In these Regulations "equity share capital", in relation to a company, means its issued share capital excluding any part of that capital that, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution.

Chapter 2

ALLOTMENT OF SHARES: GENERAL PROVISIONS

Power of directors to allot shares

508. Exercise by directors of power to allot shares etc

(1) The directors of a company must not exercise any power of the company-

(a) to allot shares in the company, or

(b) to grant rights to subscribe for, or to convert any security into, shares in the company,

except in accordance with section 509 (private company with single class of shares) or section 510 (authorisation by company).

(2) Subsection (1) does not apply-

(a) to the allotment of shares in pursuance of an employees' share scheme, or

(b) to the grant of a right to subscribe for, or to convert any security into, shares so allotted.

(3) Subsection (1) does not apply to the allotment of shares pursuant to a right to subscribe for, or to convert any security into, shares in the company.

(4) A director who knowingly contravenes, or permits or authorises a contravention of, this section commits a contravention of these Regulations.

(5) A person who commits a contravention of this section is liable to a level 2 fine.

(6) Nothing in this section affects the validity of an allotment or other transaction.

509. Power of directors to allot shares etc: private company with only one class of shares

Where a private company has only one class of shares, the directors may exercise any power of the company-

(a) to allot shares of that class, or

(b) to grant rights to subscribe for or to convert any security into such shares,

except to the extent that they are prohibited from doing so by the company's articles.

510. Power of directors to allot shares etc: authorisation by company

(1) The directors of a company may exercise a power of the company-

(a) to allot shares in the company, or

(b) to grant rights to subscribe for or to convert any security into shares in the company,

if they are authorised to do so by the company's articles or by resolution of the company.

(2) Authorisation may be given for a particular exercise of the power or for its exercise generally, and may be unconditional or subject to conditions.

(3) Authorisation must-

(a) state the maximum amount of shares that may be allotted under it and the minimum issue price for those shares, and

(b) specify the date on which it will expire, which must be not more than five years from-

(i) in the case of authorisation contained in the company's articles at the time of its original incorporation, the date of that incorporation,

(ii) in any other case, the date on which the resolution is passed by virtue of which the authorisation is given.

(4) Authorisation may-

(a) be renewed or further renewed by resolution of the company for a further period not exceeding five years, and

(b) be revoked or varied at any time by resolution of the company.

(5) A resolution renewing authorisation must-

(a) state (or restate) the maximum amount of shares that may be allotted under the authorisation or, as the case may be, the amount remaining to be allotted under it, and

(b) specify the date on which the renewed authorisation will expire.

(6) In relation to rights to subscribe for or to convert any security into shares in the company, references in this section to the maximum amount of shares that may be allotted under the authorisation are to the maximum amount of shares that may be allotted pursuant to the rights.

(7) The directors may allot shares, or grant rights to subscribe for or to convert any security into shares, after authorisation has expired if-

(a) the shares are allotted, or the rights are granted, in pursuance of an offer or agreement made by the company before the authorisation expired, and

(b) the authorisation allowed the company to make an offer or agreement which would or might require shares to be allotted, or rights to be granted, after the authorisation had expired.

(8) A resolution of a company to give, vary, revoke or renew authorisation under this section may be an ordinary resolution, even though it amends the company's articles.

(9) Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to a resolution under this section.

Prohibition of discounts etc.

511. General prohibition of commissions, discounts and allowances

(1) Except as permitted by section 512 (permitted commission), a company must not apply any of its shares or capital money, either directly or indirectly, in payment of any commission, discount to an issue price or allowance to any person in consideration of his-

(a) subscribing or agreeing to subscribe (whether absolutely or conditionally) for shares in the company, or

(b) procuring or agreeing to procure subscriptions (whether absolute or conditional) for shares in the company.

(2) It is immaterial how the shares or money are so applied, whether by being added to the purchase money of property acquired by the company or to the contract price of work to be executed for the company, or being paid out of the nominal purchase money or contract price, or otherwise.

(3) Nothing in this section affects the payment of such brokerage as has previously been lawful.

512. Permitted commission

(1) A company may, if the following conditions are satisfied, pay a commission to a person in consideration of his subscribing or agreeing to subscribe (whether absolutely or

conditionally) for shares in the company, or procuring or agreeing to procure subscriptions (whether absolute or conditional) for shares in the company.

(2) The conditions are that-

(a) the payment of the commission is authorised by the company's articles, and

(b) the commission paid or agreed to be paid does not exceed-

(i) 10% of the price at which the shares are issued, or

(ii) the amount or rate authorised by the articles,
whichever is the less.

(3) A vendor to, or promoter of, or other person who receives payment in money or shares from, a company may apply any part of the money or shares so received in payment of any commission the payment of which directly by the company would be permitted by this section.

Registration of allotment

513. Registration of allotment

(1) A company must register an allotment of shares as soon as practicable and in any event within two months after the date of the allotment.

(2) If a company fails to comply with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who commits a contravention of this section is liable to a level 2 fine.

(4) For the company's duties as to the issue of share certificates etc, see Part 20 (certification and transfer of securities).

514. Return of allotment by limited company

(1) This section applies to a company limited by shares, but shall not apply to a restricted scope company.

(2) The company must, within one month of making an allotment of shares, deliver to the Registrar for registration a return of the allotment.

(3) The return must-

(a) contain the prescribed information, and

(b) be accompanied by a statement of capital.

(4) The statement of capital must state with respect to the company's share capital at the date to which the return is made up-

(a) the total number of shares of the company,

(b) the aggregate issue price of those shares,

(c) for each class of shares-

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate issue price of shares of that class, and

(d) the amount paid up and the amount (if any) unpaid on each share.

515. Return of allotment by unlimited company allotting new class of shares

(1) This section applies to an unlimited company that allots shares of a class with rights that are not in all respects uniform with shares previously allotted.

(2) The company must, within one month of making such an allotment, deliver to the Registrar for registration a return of the allotment.

(3) The return must contain the prescribed particulars of the rights attached to the shares.

(4) For the purposes of this section shares are not to be treated as different from shares previously allotted by reason only that the former do not carry the same rights to dividends as the latter during the 12 months immediately following the former's allotment.

516. Offence of failure to make return

(1) If a company makes default in complying with-

(a) section 514 (return of allotment of shares by limited company), or

(b) section 515 (return of allotment of new class of shares by unlimited company),

a contravention of these Regulations is committed by every officer of the company who is in default.

(2) A person who commits a contravention as described in subsection (1) is liable to a level 2 fine.

(3) In the case of default in delivering to the Registrar within one month after the allotment the return required by section 514 or 515-

(a) any person liable for the default may apply to the Court for relief, and

(b) the Court, if satisfied-

(i) that the omission to deliver the document was accidental or due to inadvertence, or

(ii) that it is just and equitable to grant relief,

may make an order extending the time for delivery of the document for such period as the Court thinks proper.

517. When shares are allotted

For the purposes of these Regulations shares in a company are taken to be allotted when a person acquires the unconditional right to be included in the company's register of members in respect of the shares.

518. Provisions about allotment not applicable to shares taken on formation

The provisions of this Chapter have no application in relation to the taking of shares by the initial shareholders on the formation of the company.

Chapter 3

ALLOTMENT OF EQUITY SECURITIES: EXISTING SHAREHOLDERS' RIGHT OF PRE-EMPTION

Introductory

519. Meaning of "equity securities" and related expressions

(1) In this Chapter-

"equity securities" means-

(a) ordinary shares in the company, or

(b) rights to subscribe for, or to convert securities into, ordinary shares in the company,

"ordinary shares" means shares other than shares that as respects dividends and capital carry a right to participate only up to a specified amount in a distribution.

(2) References in this Chapter to the allotment of equity securities-

(a) include the grant of a right to subscribe for, or to convert any securities into, ordinary shares in the company, and

(b) do not include the allotment of shares pursuant to such a right.

(3) References in this Chapter to the allotment of equity securities include the sale of ordinary shares in the company that immediately before the sale were held by the company as treasury shares.

520. Existing shareholders' right of pre-emption

(1) A company must not allot equity securities to a person on any terms unless-

(a) it has made an offer to each person who holds ordinary shares in the company to allot to him on the same or more favourable terms a proportion of those securities that is as nearly as practicable equal to the proportion held by him of the ordinary share capital of the company, and

(b) the period during which any such offer may be accepted has expired or the company has received notice of the acceptance or refusal of every offer so made.

(2) Securities that a company has offered to allot to a holder of ordinary shares may be allotted to him, or anyone in whose favour he has renounced his right to their allotment, without contravening subsection 520(1)(b).

(3) Shares held by the company as treasury shares are disregarded for the purposes of this section, so that-

(a) the company is not treated as a person who holds ordinary shares, and

(b) the shares are not treated as forming part of the ordinary share capital of the company.

(4) This section is subject to-

(a) sections 523 to 525 (exceptions to pre-emption right),

(b) sections 526 and 527 (exclusion of rights of pre-emption), and

(c) sections 528 to 532 (disapplication of pre-emption rights).

521. Communication of pre-emption offers to shareholders

(1) This section has effect as to the manner in which offers required by section 520 are to be made to holders of a company's shares.

(2) The offer may be made in hard copy or electronic form.

(3) If the holder has no registered address in the Abu Dhabi Global Market and has not given to the company an address in the Abu Dhabi Global Market for the service of notices on him, the offer may be made by causing it, or a notice specifying where a copy of it can be obtained or inspected, to be published on the company's website.

(4) The offer must state a period during which it may be accepted and the offer shall not be withdrawn before the end of that period.

(5) The period must be a period of at least 14 days beginning-

(a) in the case of an offer made in hard copy form, with the date on which the offer is sent or supplied,

(b) in the case of an offer made in electronic form, with the date on which the offer is sent,

(c) in the case of an offer made by publication in a leading English language newspaper of the United Arab Emirates, with the date of publication.

(6) The Board may make rules that-

(a) reduce the period specified in subsection (5), or

(b) increase that period.

522. Liability of company and officers in case of contravention

(1) This section applies where there is a contravention of-

(a) section 520 (existing shareholders' right of pre-emption), or

(b) section 521 (communication of pre-emption offers to shareholders).

(2) The company and every officer of it who knowingly authorised or permitted the contravention are jointly and severally liable to compensate any person to whom an offer should have been made in accordance with those provisions for any loss, damage, costs or expenses which the person has sustained or incurred by reason of the contravention.

(3) No proceedings to recover any such loss, damage, costs or expenses shall be commenced after the expiration of two years-

(a) from the delivery to the Registrar of companies of the return of allotment, or

(b) or where equity securities are granted by a restricted scope company, from the date of the grant or

(c) where equity securities other than shares are granted, from the date of the grant.

523. Exception to pre-emption right: bonus shares

Section 520(1) (existing shareholders' right of pre-emption) does not apply in relation to the allotment of bonus shares.

524. Exception to pre-emption right: issue for non-cash consideration

Section 520(1) (existing shareholders' right of pre-emption) does not apply to a particular allotment of equity securities if these are, or are to be, wholly or partly paid up otherwise than in cash.

525. Exceptions to pre-emption right: employees' share schemes

Section 520(1) (existing shareholders' right of pre-emption) does not apply to the allotment of equity securities that would, apart from any renunciation or assignment of the right to their allotment, be held under or allotted or transferred pursuant to an employees' share scheme.

526. Exclusion of requirements by private companies

(1) All or any of the requirements of-

(a) section 520 (existing shareholders' right of pre-emption), or

(b) section 521 (communication of pre-emption offers to shareholders)

may be excluded by provision contained in the articles of a private company.

(2) They may be excluded-

(a) generally in relation to the allotment by the company of equity securities, or

(b) in relation to allotments of a particular description.

(3) Any requirement or authorisation contained in the articles of a private company that is inconsistent with either of those sections is treated for the purposes of this section as a provision excluding that section.

(4) A provision to which section 527 applies (exclusion of pre-emption right: corresponding right conferred by articles) is not to be treated as inconsistent with section 520.

527. Exclusion of pre-emption right: articles conferring corresponding right

(1) The provisions of this section apply where, in a case in which section 520 (existing shareholders' right of pre-emption) would otherwise apply-

(a) a company's articles contain provision ("pre-emption provision") prohibiting the company from allotting ordinary shares of a particular class unless it has complied with the condition that it makes such an offer as is described in section 520(1) to each person who holds ordinary shares of that class, and

(b) in accordance with that provision-

(i) the company makes an offer to allot shares to such a holder, and

(ii) he or anyone in whose favour he has renounced his right to their allotment accepts the offer.

(2) In that case, section 520 does not apply to the allotment of those shares and the company may allot them accordingly.

(3) The provisions of section 521 (communication of pre-emption offers to shareholders) apply in relation to offers made in pursuance of the pre-emption provision of the company's articles.

This is subject to section 526 (exclusion of requirements by private companies).

(4) If there is a contravention of the pre-emption provision of the company's articles, the company, and every officer of it who knowingly authorised or permitted the contravention, are jointly and severally liable to compensate any person to whom an offer should have been made under the provision for any loss, damage, costs or expenses which the person has sustained or incurred by reason of the contravention.

(5) No proceedings to recover any such loss, damage, costs or expenses may be commenced after the expiration of two years-

(a) from the delivery to the Registrar of companies of the return of allotment, or

(b) or where equity securities are granted by a restricted scope company, from the date of the grant or

(c) where equity securities other than shares are granted, from the date of the grant

528. Disapplication of pre-emption rights: private company with only one class of shares

(1) The directors of a private company that has only one class of shares may be given power by the articles, or by a special resolution of the company, to allot equity securities of that class as if section 520 (existing shareholders' right of pre-emption)-

(a) did not apply to the allotment, or

(b) applied to the allotment with such modifications as the directors may determine.

(2) Where the directors make an allotment under this section, the provisions of this Chapter have effect accordingly.

529. Disapplication of pre-emption rights: directors acting under general authorisation

(1) Where the directors of a company are generally authorised for the purposes of section 510 (power of directors to allot shares etc: authorisation by company), they may be given power by the articles, or by a special resolution of the company, to allot equity securities pursuant to that authorisation as if section 520 (existing shareholders' right of pre-emption)-

(a) did not apply to the allotment, or

(b) applied to the allotment with such modifications as the directors may determine.

(2) Where the directors make an allotment under this section, the provisions of this Chapter have effect accordingly.

(3) The power conferred by this section ceases to have effect when the authorisation to which it relates-

(a) is revoked, or

(b) would (if not renewed) expire,

but if the authorisation is renewed the power may also be renewed, for a period not longer than that for which the authorisation is renewed, by a special resolution of the company.

(4) Notwithstanding that the power conferred by this section has expired, the directors may allot equity securities in pursuance of an offer or agreement previously made by the company if the power enabled the company to make an offer or agreement that would or might require equity securities to be allotted after it expired.

530. Disapplication of pre-emption rights by special resolution

(1) Where the directors of a company are authorised for the purposes of section 510 (power of directors to allot shares etc: authorisation by company), whether generally or otherwise, the company may by special resolution resolve that section 520 (existing shareholders' right of pre-emption)-

(a) does not apply to a specified allotment of equity securities to be made pursuant to that authorisation, or

(b) applies to such an allotment with such modifications as may be specified in the resolution.

(2) Where such a resolution is passed the provisions of this Chapter have effect accordingly.

(3) A special resolution under this section ceases to have effect when the authorisation to which it relates-

(a) is revoked, or

(b) would (if not renewed) expire,

but if the authorisation is renewed the resolution may also be renewed, for a period not longer than that for which the authorisation is renewed, by a special resolution of the company.

(4) Notwithstanding that any such resolution has expired, the directors may allot equity securities in pursuance of an offer or agreement previously made by the company if the resolution enabled the company to make an offer or agreement that would or might require equity securities to be allotted after it expired.

(5) A special resolution under this section, or a special resolution to renew such a resolution, must not be proposed unless-

(a) it is recommended by the directors, and

(b) the directors have complied with the following provisions.

(6) Before such a resolution is proposed, the directors must make a written statement setting out-

(a) their reasons for making the recommendation,

(b) the amount to be paid to the company in respect of the equity securities to be allotted, and

(c) the directors' justification of that amount.

(7) The directors' statement must-

(a) if the resolution is proposed as a written resolution, be sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him,

(b) if the resolution is proposed at a general meeting, be circulated to the members entitled to notice of the meeting with that notice.

531. Liability for false statement in directors' statement

(1) This section applies in relation to a directors' statement under section 530 (special resolution disapplying pre-emption rights) that is sent, submitted or circulated under subsection (7) of that section.

(2) A person who knowingly or recklessly authorises or permits the inclusion of any matter that is misleading, false or deceptive in a material particular in such a statement commits a contravention of these Regulations.

(3) A person who commits a contravention of this section is liable to a fine of up to level 7.

532. Disapplication of pre-emption rights: sale of treasury shares

(1) This section applies in relation to a sale of shares that is an allotment of equity securities by virtue of section 519(3).

(2) The directors of a company may be given power by the articles, or by a special resolution of the company, to allot equity securities as if section 520 (existing shareholders' right of pre-emption)-

(a) did not apply to the allotment, or

(b) applied to the allotment with such modifications as the directors may determine.

(3) The provisions of section 529(2) and (4) apply in that case as they apply to a case within subsection (1) of that section.

(4) The company may by special resolution resolve that section 520-

(a) shall not apply to a specified allotment of securities, or

(b) shall apply to the allotment with such modifications as may be specified in the resolution.

(5) The provisions of section 530(2) and (4) to (7) apply in that case as they apply to a case within subsection (1) of that section.

533. References to holder of shares in relation to offer

(1) In this Chapter, in relation to an offer to allot securities required by-

(a) section 520 (existing shareholders' right of pre-emption), or

(b) any provision to which section 527 applies (articles conferring corresponding right),

a reference (however expressed) to the holder of shares of any description is to whoever was the holder of shares of that description at the close of business on a date to be specified in the offer.

(2) The specified date must fall within the period of one month immediately before the date of the offer.

534. Saving for other restrictions on offer or allotment

(1) The provisions of this Chapter are without prejudice to any other law or regulation applicable to the Abu Dhabi Global Market by virtue of which a company is prohibited (whether generally or in specified circumstances) from offering or allotting equity securities to any person.

(2) Where a company cannot by virtue of such a law or regulation applicable to the Abu Dhabi Global Market offer or allot equity securities to a holder of ordinary shares of the company, those shares are disregarded for the purposes of section 520 (existing shareholders' right of pre-emption), so that-

(a) the person is not treated as a person who holds ordinary shares, and

(b) the shares are not treated as forming part of the ordinary share capital of the company.

535. Provisions about pre-emption not applicable to shares taken on formation

The provisions of this Chapter have no application in relation to the taking of shares by the initial shareholders on the formation of the company.

536. Public companies: allotment where issue not fully subscribed

(1) No allotment shall be made of shares of a public company offered for subscription unless-

(a) the issue is subscribed for in full, or

(b) the offer is made on terms that the shares subscribed for may be allotted-

(i) in any event, or

(ii) if specified conditions are met (and those conditions are met).

(2) If shares are prohibited from being allotted by subsection (1) and 40 days have elapsed after the first making of the offer, all money received from applicants for shares must be repaid to them forthwith, without interest.

(3) If any of the money is not repaid within 48 days after the first making of the offer, the directors of the company are jointly and severally liable to repay it.

A director is not so liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(4) This section applies in the case of shares offered as wholly or partly payable otherwise than in cash as it applies in the case of shares offered for subscription.

(5) In that case-

(a) the references in subsection (1) to subscription shall be construed accordingly,

(b) references in subsections (2) and (3) to the repayment of money received from applicants for shares include-

(i) the return of any other consideration so received (including, if the case so requires, the release of the applicant from any undertaking), or

(ii) if it is not reasonably practicable to return the consideration, the payment of money equal to its value at the time it was so received,

(c) references to interest apply accordingly.

(6) Any condition requiring or binding an applicant for shares to waive compliance with any requirement of this section is void.

537. Public companies: effect of irregular allotment where issue not fully subscribed

(1) An allotment made by a public company to an applicant in contravention of section 536 (public companies: allotment where issue not fully subscribed) is voidable at the instance of the applicant within one month after the date of the allotment, and not later.

(2) It is so voidable even if the company is in the course of being wound up.

(3) A director of a public company who knowingly contravenes, or permits or authorises the contravention of, any provision of section 536 with respect to allotment is liable to compensate the company and the allottee respectively for any loss, damages, costs or expenses that the company or allottee may have sustained or incurred by the contravention.

(4) Proceedings to recover any such loss, damages, costs or expenses may not be brought more than two years after the date of the allotment.

Chapter 4

PAYMENT FOR SHARES

General rules

538. Provision for different amounts to be paid on shares

A company, if so authorised by its articles, may-

(a) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares,

(b) accept from any member the whole or part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up,

(c) pay a dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

539. General rule as to means of payment

(1) Shares allotted by a company may be paid up in money or money's worth (including goodwill and know-how).

(2) This section does not prevent a company-

(a) from allotting bonus shares to its members, or

(b) from paying up, with sums available for the purpose, any amounts for the time being unpaid on any of its shares.

(3) This section has effect subject to the following provisions of this Chapter (additional rules for public companies).

540. Meaning of payment in cash

(1) The following provisions have effect for the purposes of these Regulations.

(2) A share in a company is deemed paid up in cash, or allotted for cash, if the consideration received for the allotment or payment up is a cash consideration.

(3) A "cash consideration" means-

(a) cash received by the company,

(b) a cheque received by the company in good faith that the directors have no reason for suspecting will not be paid,

(c) a release of a liability of the company for a liquidated sum,

(d) an undertaking to pay cash to the company at a stated future date, or

(e) payment by any other means giving rise to a present or future entitlement at a stated date (of the company or a person acting on the company's behalf) to a payment, or credit equivalent to payment, in cash.

(4) The Board may make rules providing that particular means of payment specified in the order are to be regarded as falling within subsection (e).

(5) In relation to the allotment or payment up of shares in a company-

(a) the payment of cash to a person other than the company, or

(b) an undertaking to pay cash to a person other than the company,

counts as consideration other than cash.

This does not apply for the purposes of Chapter 3 (allotment of equity securities: existing shareholders' right of pre-emption).

(6) For the purpose of determining whether a share is or is to be allotted for cash, or paid up in cash, "cash" includes currency other than US dollars, or the currency in which the shares are to be issued.

Additional rules for public companies

541. Public companies: shares taken by initial shareholders

Shares taken by an initial shareholder of a public company in pursuance of an undertaking of his in the memorandum must be paid up in cash.

542. Public companies: must not accept undertaking to do work or perform services

(1) A public company must not accept at any time, in payment up of its shares, an undertaking given by any person that he or another should do work or perform services for the company or any other person.

(2) If a public company accepts such an undertaking in payment up of its shares, the holder of the shares when they are treated as paid up (in whole or in part) by the undertaking is liable-

(a) to pay the company in respect of those shares an amount equal to their aggregate issue price, or, if the case so requires, such proportion of that amount as is treated as paid up by the undertaking, and

(b) to pay interest at the appropriate rate on the amount payable under subsection (2)(a).

(3) The reference in subsection (2) to the holder of shares includes a person who has an unconditional right-

(a) to be included in the company's register of members in respect of those shares, or

(b) to have an instrument of transfer of them executed in his favour.

543. Public companies: shares must be at least one-quarter paid up

(1) A public company must not allot a share except as paid up at least as to one-quarter of its issue price.

(2) This does not apply to shares allotted in pursuance of an employees' share scheme.

(3) If a company allots a share in contravention of this section-

(a) the share is to be treated as if one-quarter of its issue price had been received, and

(b) the allottee is liable to pay the company the minimum amount which should have been received in respect of the share under subsection (1) (less the value of any consideration actually applied in payment up, to any extent, of the share), with interest at the appropriate rate.

(4) Subsection (3) does not apply to the allotment of bonus shares, unless the allottee knew or ought to have known the shares were allotted in contravention of this section.

544. Public companies: payment by long-term undertaking

(1) A public company must not allot shares as fully or partly paid up otherwise than in cash if the consideration for the allotment is or includes an undertaking which is to be, or may be, performed more than five years after the date of the allotment.

(2) If a company allots shares in contravention of subsection (1), the allottee is liable to pay the company an amount equal to the aggregate issue price of the shares so allotted (or, if the case so requires, so much of that aggregate as is treated as paid up by the undertaking), with interest at the appropriate rate.

(3) Where a contract for the allotment of shares does not contravene subsection (1), any variation of the contract that has the effect that the contract would have contravened the subsection, if the terms of the contract as varied had been its original terms, is void.

This applies also to the variation by a public company of the terms of a contract entered into before the company was re-registered as a public company.

(4) Where-

(a) a public company allots shares for a consideration which consists of or includes (in accordance with subsection (1)) an undertaking that is to be performed within five years of the allotment, and

(b) the undertaking is not performed within the period allowed by the contract for the allotment of the shares,

the allottee is liable to pay the company, at the end of the period so allowed, an amount equal to the aggregate issue price of the shares (or, if the case so requires, so much of that aggregate as is treated as paid up by the undertaking), with interest at the appropriate rate.

(5) References in this section to a contract for the allotment of shares include an ancillary contract relating to payment in respect of them.

Supplementary provisions

545. Liability of subsequent holders of shares

(1) If a person becomes a holder of shares in respect of which-

(a) there has been a contravention of any provision of this Chapter, and

(b) by virtue of that contravention another is liable to pay any amount under the provision contravened,

that person is also liable to pay that amount (jointly and severally with any other person so liable), subject as follows.

(2) A person otherwise liable under subsection (1) is exempted from that liability if either-

(a) he is a purchaser for value and, at the time of the purchase, he did not have actual notice of the contravention concerned, or

(b) he derived title to the shares (directly or indirectly) from a person who became a holder of them after the contravention and was not liable under subsection (1).

(3) References in this section to a holder, in relation to shares in a company, include any person who has an unconditional right-

(a) to be included in the company's register of members in respect of those shares, or

(b) to have an instrument of transfer of the shares executed in his favour.

(4) This section applies in relation to a failure to carry out a term of a contract as mentioned in section 544(4) (public companies: payment by long-term undertaking) as it applies in relation to a contravention of a provision of this Chapter.

546. Power of Court to grant relief

(1) This section applies in relation to liability under-

(a) section 542(2) (liability of allottee in case of breach by public company of prohibition on accepting undertaking to do work or perform services),

(b) section 544(2)or (4) (liability of allottee in case of breach by public company of prohibition on payment by long-term undertaking), or

(c) section 545 (liability of subsequent holders of shares),

as it applies in relation to a contravention of those sections.

(2) A person who-

(a) is subject to any such liability to a company in relation to payment in respect of shares in the company, or

(b) is subject to any such liability to a company by virtue of an undertaking given to it in, or in connection with, payment for shares in the company,

may apply to the Court to be exempted in whole or in part from the liability.

(3) In the case of a liability within subsection 546(2)(a), the Court may exempt the applicant from the liability only if and to the extent that it appears to the Court just and equitable to do so having regard to-

(a) whether the applicant has paid, or is liable to pay, any amount in respect of-

(i) any other liability arising in relation to those shares under any provision of this Chapter or Chapter 6, or

(ii) any liability arising by virtue of any undertaking given in or in connection with payment for those shares,

(b) whether any person other than the applicant has paid or is likely to pay, whether in pursuance of any order of the Court or otherwise, any such amount,

(c) whether the applicant or any other person-

(i) has performed in whole or in part, or is likely so to perform any such undertaking, or

(ii) has done or is likely to do any other thing in payment or part payment for the shares.

(4) In the case of a liability within subsection 546(2)(b), the Court may exempt the applicant from the liability only if and to the extent that it appears to the Court just and equitable to do so having regard to-

(a) whether the applicant has paid or is liable to pay any amount in respect of liability arising in relation to the shares under any provision of this Chapter or Chapter 6,

(b) whether any person other than the applicant has paid or is likely to pay, whether in pursuance of any order of the Court or otherwise, any such amount.

(5) In determining whether it should exempt the applicant in whole or in part from any liability, the Court must have regard to the following overriding principles-

(a) a company that has allotted shares should receive money or money's worth at least equal in value to their aggregate issue price or, if the case so requires, so much of that aggregate as is treated as paid up,

(b) subject to that, where a company would, if the Court did not grant the exemption, have more than one remedy against a particular person, it should be for the company to decide which remedy it should remain entitled to pursue.

(6) If a person brings proceedings against another ("the contributor") for a contribution in respect of liability to a company arising under any provision of this Chapter or Chapter 6 and it appears to the Court that the contributor is liable to make such a contribution, the Court may, if and to the extent that it appears to it just and equitable to do so having regard to the respective culpability (in respect of the liability to the company) of the contributor and the person bringing the proceedings-

(a) exempt the contributor in whole or in part from his liability to make such a contribution, or

(b) order the contributor to make a larger contribution than, but for this subsection, he would be liable to make.

547. Penalty for contravention of this Chapter

(1) If a company contravenes any of the provisions of this Chapter, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(2) A person who commits a contravention of this Chapter is liable to a level 2 fine.

548. Enforceability of undertakings to do work etc

(1) An undertaking given by any person, in or in connection with payment for shares in a company, to do work or perform services or to do any other thing, if it is enforceable by the company apart from this Chapter, is so enforceable notwithstanding that there has been a contravention in relation to it of a provision of this Chapter or Chapter 6.

(2) This is without prejudice to section 546 (power of Court to grant relief etc in respect of liabilities).

549. The appropriate rate of interest

For the purposes of this Chapter the "appropriate rate" of interest is 5% per annum or such other rate as may be specified by order made by the Board.

Chapter 5

PUBLIC COMPANIES: INDEPENDENT VALUATION OF NON-CASH CONSIDERATION

Non-cash consideration for shares

550. Public company: valuation of non-cash consideration for shares

(1) A public company must not allot shares as fully or partly paid up otherwise than in cash unless-

(a) the consideration for the allotment has been independently valued in accordance with the provisions of this Chapter,

(b) the valuer's report has been made to the company during the six months immediately preceding the allotment of the shares, and

(c) a copy of the report has been sent to the proposed allottee.

(2) For this purpose the application of an amount standing to the credit of-

(a) any of a company's reserve accounts, or

(b) its profit and loss account,

in paying up (to any extent) shares allotted to members of the company does not count as consideration for the allotment.

Accordingly, subsection 550(1) does not apply in that case.

(3) If a company allots shares in contravention of subsection (1) and either-

(a) the allottee has not received the valuer's report required to be sent to him, or

(b) there has been some other contravention of the requirements of this section or section 553 that the allottee knew or ought to have known amounted to a contravention,

the allottee is liable to pay the company an amount equal to the aggregate issue price of the shares (or, if the case so requires, so much of that aggregate as is treated as paid up by the consideration), with interest at the appropriate rate.

(4) This section has effect subject to-

(a) section 551 (exception to valuation requirement: arrangement with another company), and

(b) section 552 (exception to valuation requirement: merger or division).

551. Exception to valuation requirement: arrangement with another company

(1) Section 550 (valuation of non-cash consideration) does not apply to the allotment of shares by a company ("company A") in connection with an arrangement to which this section applies.

(2) This section applies to an arrangement for the allotment of shares in company A on terms that the whole or part of the consideration for the shares allotted is to be provided by-

(a) the transfer to that company, or

(b) the cancellation,

of all or some of the shares, or of all or some of the shares of a particular class, in another company ("company B").

(3) It is immaterial whether the arrangement provides for the issue to company A of shares, or shares of any particular class, in company B.

(4) This section applies to an arrangement only if under the arrangement it is open to all the holders of the shares in company B (or, where the arrangement applies only to shares of a particular class, to all the holders of shares of that class) to take part in the arrangement.

(5) In determining whether that is the case, the following shall be disregarded-

(a) shares held by or by a nominee of company A,

(b) shares held by or by a nominee of a company which is-

(i) the holding company, or a subsidiary, of company A, or

(ii) a subsidiary of such a holding company,

(c) shares held as treasury shares by company B.

(6) In this section-

(a) "arrangement" means any agreement, scheme or arrangement (including an arrangement sanctioned in accordance with Part 25 (arrangements and reconstructions), and

(b) "company", except in reference to company A, includes any body corporate.

552. Exception to valuation requirement: merger or division

(1) Section 550 (valuation of non-cash consideration) does not apply to the allotment of shares by a company as part of a scheme to which Part 26 (mergers and divisions of public companies) applies if-

(a) in the case of a scheme involving a merger, an expert's report is drawn up as required by section 816 (expert's report (merger)), or

(b) in the case of a scheme involving a division, an expert's report is drawn up as required by section 836 (expert's report (division)).

553. Non-cash consideration for shares: requirements as to valuation and report

(1) The provisions of sections 1010 to 1013 (general provisions as to independent valuation and report) apply to the valuation and report required by section 550 (public company: valuation of non-cash consideration for shares).

(2) The valuer's report must state-

(a) the aggregate issue price for the shares to be wholly or partly paid for by the consideration in question,

(b) the description of the consideration and, as respects so much of the consideration as he himself has valued, a description of that part of the consideration, the method used to value it and the date of the valuation,

(c) the extent to which aggregate issue price for the shares is to be treated as paid up-

(i) by the consideration,

(ii) in cash.

(3) The valuer's report must contain or be accompanied by a note by him-

(a) in the case of a valuation made by a person other than himself, that it appeared to himself reasonable to arrange for it to be so made or to accept a valuation so made,

(b) whoever made the valuation, that the method of valuation was reasonable in all the circumstances,

(c) that it appears to the valuer that there has been no material change in the value of the consideration in question since the valuation, and

(d) that, on the basis of the valuation, the value of the consideration, together with any cash by which the aggregate issue price for the shares is to be paid up, is not less than so much of the aggregate issue price for the shares as is treated as paid up by the consideration and any such cash.

554. Copy of report to be delivered to Registrar

(1) A company to which a report is made under section 550 as to the value of any consideration for which, or partly for which, it proposes to allot shares must deliver a copy of the report to the Registrar for registration.

(2) The copy must be delivered at the same time that the company files the return of the allotment of those shares under section 514 (return of allotment by limited company).

(3) If default is made in complying with subsection (1) or (2), a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who commits a contravention of this section is liable to a level 2 fine.

(5) In the case of default in delivering to the Registrar any document as required by this section, any person liable for the default may apply to the Court for relief.

(6) The Court, if satisfied-

(a) that the omission to deliver the document was accidental or due to inadvertence, or

(b) that it is just and equitable to grant relief,

may make an order extending the time for delivery of the document for such period as the Court thinks proper.

Transfer of non-cash asset in an initial period

555. Public company: agreement for transfer of non-cash asset in initial period

(1) A public company formed as such must not enter into an agreement-

(a) with a person who is one of its initial members,

(b) for the transfer by him to the company, or another, before the end of the company's initial period of one or more non-cash assets, and

(c) under which the consideration for the transfer to be given by the company is at the time of the agreement equal in value to one-tenth or more of the company's issued share capital,

unless the conditions referred to below have been complied with.

(2) The company's "initial period" means the period of two years beginning with the date of the company being issued with a certificate under section 699(2) (trading certificate).

(3) The conditions are those specified in-

(a) section 556 (requirement of independent valuation), and

(b) section 558 (requirement of approval by members).

(4) This section does not apply where-

(a) it is part of the company's ordinary business to acquire, or arrange for other persons to acquire, assets of a particular description, and

(b) the agreement is entered into by the company in the ordinary course of that business.

(5) This section does not apply to an agreement entered into by the company under the supervision of the Court or of an officer authorised by the Court for the purpose.

556. Agreement for transfer of non-cash asset: requirement of independent valuation

(1) The following conditions must have been complied with-

(a) the consideration to be received by the company, and any consideration other than cash to be given by the company, must have been independently valued in accordance with the provisions of this Chapter,

(b) the valuer's report must have been made to the company during the six months immediately preceding the date of the agreement, and

(c) a copy of the report must have been sent to the other party to the proposed agreement not later than the date on which copies have to be circulated to members under section 558(1)(b).

(2) The reference in subsection 556(1)(a) to the consideration to be received by the company is to the asset to be transferred to it or, as the case may be, to the advantage to the company of the asset's transfer to another person.

(3) The reference in subsection 556(1)(c) to the other party to the proposed agreement is to the person referred to in section 555(1)(a).

If he has received a copy of the report under section 558 in his capacity as a member of the company, it is not necessary to send another copy under this section.

(4) This section does not affect any requirement to value any consideration for purposes of section 550 (valuation of non-cash consideration for shares).

557. Agreement for transfer of non-cash asset: requirements as to valuation and report

(1) The provisions of sections 1010 to 1013 (general provisions as to independent valuation and report) apply to the valuation and report required by section 556 (requirement of independent valuation).

(2) The valuer's report must state-

(a) the consideration to be received by the company, describing the asset in question (specifying the amount to be received in cash) and the consideration to be given by the company (specifying the amount to be given in cash), and

(b) the method and date of valuation.

(3) The valuer's report must contain or be accompanied by a note by him-

(a) in the case of a valuation made by a person other than himself, that it appeared to himself reasonable to arrange for it to be so made or to accept a valuation so made,

(b) whoever made the valuation, that the method of valuation was reasonable in all the circumstances,

(c) that it appears to the valuer that there has been no material change in the value of the consideration in question since the valuation, and

(d) that, on the basis of the valuation, the value of the consideration to be received by the company is not less than the value of the consideration to be given by it.

(4) Any reference in section 556 or this section to consideration given for the transfer of an asset includes consideration given partly for its transfer.

(5) In such a case-

(a) the value of any consideration partly so given is to be taken as the proportion of the consideration properly attributable to its transfer,

(b) the valuer must carry out or arrange for such valuations of anything else as will enable him to determine that proportion, and

(c) his report must state what valuations have been made for that purpose and also the reason for and method and date of any such valuation and any other matters which may be relevant to that determination.

558. Agreement for transfer of non-cash asset: requirement of approval by members

(1) The following conditions must have been complied with-

(a) the terms of the agreement must have been approved by an ordinary resolution of the company,

(b) copies of the valuer's report must have been circulated to the members entitled to notice of the meeting at which the resolution is proposed, not later than the date on which notice of the meeting is given, and

(c) a copy of the proposed resolution must have been sent to the other party to the proposed agreement.

(2) The reference in subsection 558(1)(c) to the other party to the proposed agreement is to the person referred to in section 555(1)(a).

559. Copy of resolution to be delivered to Registrar

(1) A company that has passed a resolution under section 558 with respect to the transfer of an asset must, within 14 days of doing so, deliver to the Registrar a copy of the resolution together with the valuer's report required by that section.

(2) If a company fails to comply with subsection (1), a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who commits a contravention of this section is liable to a level 2 fine.

560. Adaptation of provisions in relation to company re-registering as public

The provisions of sections 555 to 559 (public companies: transfer of non-cash assets) apply with the following adaptations in relation to a company re-registered as a public company-

(a) the reference in section 555(1)(a) to a person who is one of the company's initial members shall be read as a reference to a person who is a member of the company on the date of re-registration,

(b) the reference in section 555(2) to the date of the company being issued with a certificate under subsection 699(2) (trading certificate) shall be read as a reference to the date of re-registration.

561. Agreement for transfer of non-cash asset: effect of contravention

(1) This section applies where a public company enters into an agreement in contravention of section 555 and either-

(a) the other party to the agreement has not received the valuer's report required to be sent to him, or

(b) there has been some other contravention of the requirements of this Chapter that the other party to the agreement knew or ought to have known amounted to a contravention.

(2) In those circumstances-

(a) the company is entitled to recover from that person any consideration given by it under the agreement, or an amount equal to the value of the consideration at the time of the agreement, and

(b) the agreement, so far as not carried out, is void.

(3) If the agreement is or includes an agreement for the allotment of shares in the company, then-

(a) whether or not the agreement also contravenes section 550 (valuation of non-cash consideration for shares), this section does not apply to it in so far as it is for the allotment of shares, and

(b) the allottee is liable to pay the company an amount equal to the aggregate issue price for the shares (or, if the case so requires, so much of that aggregate as is treated as paid up by the consideration), with interest at the appropriate rate.

Supplementary provisions

562. Liability of subsequent holders of shares

(1) If a person becomes a holder of shares in respect of which-

(a) there has been a contravention of section 550 (public company: valuation of non-cash consideration for shares), and

(b) by virtue of that contravention another is liable to pay any amount under the provision contravened,

that person is also liable to pay that amount (jointly and severally with any other person so liable), unless he is exempted from liability under subsection (3) below.

(2) If a company enters into an agreement in contravention of section 555 (public company: agreement for transfer of non-cash asset in initial period) and-

(a) the agreement is or includes an agreement for the allotment of shares in the company,

(b) a person becomes a holder of shares allotted under the agreement, and

(c) by virtue of the agreement and allotment under it another person is liable to pay an amount under section 561,

the person who becomes the holder of the shares is also liable to pay that amount (jointly and severally with any other person so liable), unless he is exempted from liability

under subsection (3) below. This applies whether or not the agreement also contravenes section 550.

(3) A person otherwise liable under subsection (1) or (2) is exempted from that liability if either-

(a) he is a purchaser for value and, at the time of the purchase, he did not have actual notice of the contravention concerned, or

(b) he derived title to the shares (directly or indirectly) from a person who became a holder of them after the contravention and was not liable under subsection (1) or (2).

(4) References in this section to a holder, in relation to shares in a company, include any person who has an unconditional right-

(a) to be included in the company's register of members in respect of those shares, or

(b) to have an instrument of transfer of the shares executed in his favour.

563. Power of Court to grant relief

(1) A person who-

(a) is liable to a company under any provision of this Chapter in relation to payment in respect of any shares in the company, or

(b) is liable to a company by virtue of an undertaking given to it in, or in connection with, payment for any shares in the company,

may apply to the Court to be exempted in whole or in part from the liability.

(2) In the case of a liability within subsection 563(1)(a), the Court may exempt the applicant from the liability only if and to the extent that it appears to the Court just and equitable to do so having regard to-

(a) whether the applicant has paid, or is liable to pay, any amount in respect of-

(i) any other liability arising in relation to those shares under any provision of this Chapter or Chapter 5, or

(ii) any liability arising by virtue of any undertaking given in or in connection with payment for those shares,

(b) whether any person other than the applicant has paid or is likely to pay, whether in pursuance of any order of the Court or otherwise, any such amount,

(c) whether the applicant or any other person-

(i) has performed in whole or in part, or is likely so to perform any such undertaking, or

(ii) has done or is likely to do any other thing in payment or part payment for the shares.

(3) In the case of a liability within subsection 563(1)(b), the Court may exempt the applicant from the liability only if and to the extent that it appears to the Court just and equitable to do so having regard to-

(a) whether the applicant has paid or is liable to pay any amount in respect of liability arising in relation to the shares under any provision of this Chapter or Chapter 5,

(b) whether any person other than the applicant has paid or is likely to pay, whether in pursuance of any order of the Court or otherwise, any such amount.

(4) In determining whether it should exempt the applicant in whole or in part from any liability, the Court must have regard to the following overriding principles-

(a) that a company that has allotted shares should receive money or money's worth at least equal in value to the aggregate issue price for the shares or, if the case so requires, so much of that aggregate as is treated as paid up,

(b) subject to this, that where such a company would, if the Court did not grant the exemption, have more than one remedy against a particular person, it should be for the company to decide which remedy it should remain entitled to pursue.

(5) If a person brings proceedings against another ("the contributor") for a contribution in respect of liability to a company arising under any provision of this Chapter or Chapter 5 and it appears to the Court that the contributor is liable to make such a contribution, the Court may, if and to the extent that it appears to it, just and equitable to do so having regard to the respective culpability (in respect of the liability to the company) of the contributor and the person bringing the proceedings-

(a) exempt the contributor in whole or in part from his liability to make such a contribution, or

(b) order the contributor to make a larger contribution than, but for this subsection, he would be liable to make.

(6) Where a person is liable to a company under section 561(2) (agreement for transfer of non-cash asset: effect of contravention), the Court may, on application, exempt him in whole or in part from that liability if and to the extent that it appears to the Court to be just and equitable to do so having regard to any benefit accruing to the company by virtue of anything done by him towards the carrying out of the agreement mentioned in that subsection.

564. Penalty for contravention of this Chapter

(1) This section applies where a company contravenes-

(a) section 550 (public company allotting shares for non-cash consideration), or

(b) section 555 (public company entering into agreement for transfer of noncash asset).

(2) A contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who commits a contravention of this Chapter is liable to a level 2 fine.

565. Enforceability of undertakings to do work etc

(1) An undertaking given by any person, in or in connection with payment for shares in a company, to do work or perform services or to do any other thing, if it is enforceable by the company apart from this Chapter, is so enforceable notwithstanding that there has been a contravention in relation to it of a provision of this Chapter or Chapter 5.

(2) This is without prejudice to section 563 (power of Court to grant relief etc in respect of liabilities).

566. The appropriate rate of interest

For the purposes of this Chapter the "appropriate rate" of interest is 5% per annum or such other rate as may be specified by order made by the Board.

Chapter 6

ALTERATION OF SHARE CAPITAL

How share capital may be altered

567. Alteration of share capital of limited company

(1) A limited company having a share capital may not alter its share capital except in the following ways.

(2) The company may-

(a) increase its share capital by allotting new shares in accordance with this Part, or

(b) reduce its share capital in accordance with Chapter 10.

(3) The company may sub-divide or consolidate all or any of its share capital in accordance with section 568.

(4) Nothing in this section affects-

(a) the power of a company to purchase its own shares, or to redeem shares, in accordance with Part 17,

(b) the power of a company to purchase its own shares in pursuance of an order of the Court under-

(i) section 82 (application to Court to cancel resolution for re-registration as a private company),

(ii) section 663(6) (powers of Court on objection to redemption or purchase of shares out of capital),

(iii) section 697 (remedial order in case of breach of prohibition of public offers by private company), or

(iv) Part 28 (protection of members against unfair prejudice),

(c) the forfeiture of shares, or the acceptance of shares surrendered in lieu, in pursuance of the company's articles, for failure to pay any sum payable in respect of the shares,

(d) the cancellation of shares under section 602 (duty to cancel shares held by or for a public company),

(e) the power of a company-

(i) to enter into a compromise or arrangement in accordance with Part 25 (arrangements and reconstructions), or

(ii) to do anything required to comply with an order of the Court on an application under that Part.

567A. Redenomination of share capital[22]

(1) A limited company having a share capital may by resolution redenominate its share capital or any class of its share capital.

"Redenominate" means convert shares from having a fixed nominal value in one currency to having a fixed nominal value in another currency.

(2) The conversion must be made at an appropriate spot rate of exchange specified in the resolution.

(3) The rate must be either –

(a) a rate prevailing on a day specified in the resolution, or

(b) a rate determined by taking the average of rates prevailing on each consecutive day of a period specified in the resolution.

The day or period specified for the purposes of paragraph (a) or (b) must be within the period of 28 days ending on the day before the resolution is passed.

(4) A resolution under this section may specify conditions which must be met before the redenomination takes effect.

(5) Redenomination in accordance with a resolution under this section takes effect –

(a) on the day on which the resolution is passed, or

(b) on such later day as may be determined in accordance with the resolution.

(6) A resolution under this section lapses if the redenomination for which it provides has not taken effect at the end of the period of 28 days beginning on the date on which it is passed.

(7) A company's articles may prohibit or restrict the exercise of the power conferred by this section.

(8) Chapter 3 (resolutions and agreements affecting a company's constitution) applies to a resolution under this section.

(9) For each class of share affected by the redenomination, the new nominal value of each share shall be calculated by converting the old nominal values of all the shares of that

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class to the new currency at the rate of exchange specified in the resolution and dividing that amount by the number of shares in that class.

567B. Effect of redenomination

(1) The redenomination of shares does not affect any rights or obligations of members under the company's constitution, or any restrictions affecting members under the company's constitution. In particular, it does not affect entitlement to dividends (including entitlement to dividends in a particular currency), voting rights or any liability in respect of amounts unpaid on shares.

(2) For this purpose the company's constitution includes the terms on which any shares of the company are allotted or held.

(3) Subject to subsection (1), references to the old nominal value of the shares in any agreement or statement, or in any deed, instrument or document, shall (unless the context otherwise requires) be read after the resolution takes effect as references to the new nominal value of the shares.

567C. Notice to Registrar of redenomination

(1) If a limited company having a share capital redenominates any of its share capital, it must within one month after doing so give notice to the Registrar, specifying the shares redenominated.

(2) The notice must –

(a) state the date on which the resolution was passed, and

(b) be accompanied by a statement of capital.

(3) The statement of capital must state with respect to the company's share capital as redenominated by the resolution –

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares, expressed in the new currency following redenomination,

(c) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and

(d) for each class of shares –

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class.

(4) If default is made in complying with this section, a contravention is committed by –

(a) the company, and

(b) every officer of the company who is in default.

(5) A person guilty of a contravention under this section is liable to a fine not exceeding level 2.

568. Sub-division or consolidation of shares

(1) A limited company having a share capital may-

(a) sub-divide its shares, or any of them, into a greater number of shares than its existing shares, or

(b) consolidate and divide all or any of its share capital into a lesser number of shares than its existing shares.

(2) In any sub-division, consolidation or division of shares under this section, the proportion between the amount paid and the amount (if any) unpaid on each resulting share must be the same as it was in the case of the share from which that share is derived.

(3) A company may exercise a power conferred by this section only if its members have passed a resolution authorising it to do so.

(4) A resolution under subsection (3) may authorise a company-

(a) to exercise more than one of the powers conferred by this section,

(b) to exercise a power on more than one occasion,

(c) to exercise a power at a specified time or in specified circumstances.

(5) The company's articles may exclude or restrict the exercise of any power conferred by this section.

569. Notice to Registrar of sub-division or consolidation

(1) If a company exercises the power conferred by section 568 (sub-division or consolidation of shares) it must within one month after doing so give notice to:

(a) (in the case of a company other than a restricted scope company) the Registrar, or

(b) (in the case of a restricted scope company) to each of its members,

specifying the shares affected.

(2) The notice must be accompanied by a statement of capital.

(3) The statement of capital must state with respect to the company's share capital immediately following the exercise of the power-

(a) the total number of shares of the company,

(b) the aggregate issue price of those shares,

(c) for each class of shares-

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class,

(iii) the aggregate issue price of shares of that class, and

(d) the amount paid up and the amount (if any) unpaid on each share.

(4) If default is made in complying with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits a contravention of this section is liable to a level 2 fine.

Chapter 7

CLASSES OF SHARE AND CLASS RIGHTS

Introductory

570. Classes of shares

(1) For the purposes of these Regulations shares are of one class if the rights attached to them are in all respects uniform.

(2) For this purpose the rights attached to shares are not regarded as different from those attached to other shares by reason only that they do not carry the same rights to dividends in the 12 months immediately following their allotment.

Variation of class rights

571. Variation of class rights: companies having a share capital

(1) This section is concerned with the variation of the rights attached to a class of shares in a company having a share capital.

(2) Rights attached to a class of a company's shares may only be varied-

(a) in accordance with provision in the company's articles for the variation of those rights, or

(b) where the company's articles contain no such provision, if the holders of shares of that class consent to the variation in accordance with this section.

(3) This is without prejudice to any other restrictions on the variation of the rights.

(4) The consent required for the purposes of this section on the part of the holders of a class of a company's shares is-

(a) consent in writing from the holders of at least three-quarters of the issued shares of that class (excluding any shares held as treasury shares), or

(b) a special resolution passed at a separate general meeting of the holders of that class sanctioning the variation.

(5) Any amendment of a provision contained in a company's articles for the variation of the rights attached to a class of shares, or the insertion of any such provision into the articles, is itself to be treated as a variation of those rights.

(6) In this section, and (except where the context otherwise requires) in any provision in a company's articles for the variation of the rights attached to a class of shares, references to the variation of those rights include references to their abrogation.

572. Variation of class rights: companies without a share capital

(1) This section is concerned with the variation of the rights of a class of members of a company where the company does not have a share capital.

(2) Rights of a class of members may only be varied-

(a) in accordance with provision in the company's articles for the variation of those rights, or

(b) where the company's articles contain no such provision, if the members of that class consent to the variation in accordance with this section.

(3) This is without prejudice to any other restrictions on the variation of the rights.

(4) The consent required for the purposes of this section on the part of the members of a class is-

(a) consent in writing from at least three-quarters of the members of the class, or

(b) a special resolution passed at a separate general meeting of the members of that class sanctioning the variation.

(5) Any amendment of a provision contained in a company's articles for the variation of the rights of a class of members, or the insertion of any such provision into the articles, is itself to be treated as a variation of those rights.

(6) In this section, and (except where the context otherwise requires) in any provision in a company's articles for the variation of the rights of a class of members, references to the variation of those rights include references to their abrogation.

573. Variation of class rights: saving for Court's powers under other provisions

Nothing in section 571 or 572 (variation of class rights) affects the power of the Court under-

(a) section 82 (application to cancel resolution for public company to be re-registered as private),

(b) Part 25 (arrangements and reconstructions), or

(c) Part 28 (protection of members against unfair prejudice).

574. Right to object to variation: companies having a share capital

(1) This section applies where the rights attached to any class of shares in a company are varied under section 571 (variation of class rights: companies having a share capital).

(2) The holders of not less in the aggregate than 15% of the issued shares of the class in question (being persons who did not consent to or vote in favour of the resolution for the variation) may apply to the Court to have the variation cancelled.

For this purpose any of the company's share capital held as treasury shares is disregarded.

(3) If such an application is made, the variation has no effect unless and until it is confirmed by the Court.

(4) Application to the Court-

(a) must be made within 21 days after the date on which the consent was given or the resolution was passed (as the case may be), and

(b) may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(5) The Court, after hearing the applicant and any other persons who apply to the Court to be heard and appear to the Court to be interested in the application, may, if satisfied having regard to all the circumstances of the case that the variation would unfairly prejudice the shareholders of the class represented by the applicant, disallow the variation, and shall if not so satisfied confirm it.

The decision of the Court on any such application is final.

(6) References in this section to the variation of the rights of holders of a class of shares include references to their abrogation.

575. Right to object to variation: companies without a share capital

(1) This section applies where the rights of any class of members of a company are varied under section 572 (variation of class rights: companies without a share capital).

(2) Members amounting to not less than 15% of the members of the class in question (being persons who did not consent to or vote in favour of the resolution for the variation) may apply to the Court to have the variation cancelled.

(3) If such an application is made, the variation has no effect unless and until it is confirmed by the Court.

(4) Application to the Court must be made within 21 days after the date on which the consent was given or the resolution was passed (as the case may be) and may be made on behalf of the members entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(5) The Court, after hearing the applicant and any other persons who apply to the Court to be heard and appear to the Court to be interested in the application, may, if satisfied having regard to all the circumstances of the case that the variation would unfairly prejudice the members of the class represented by the applicant, disallow the variation, and shall if not so satisfied confirm it.

The decision of the Court on any such application is final.

(6) References in this section to the variation of the rights of a class of members include references to their abrogation.

576. Copy of Court order to be forwarded to the Registrar

(1) The company must within 14 days after the making of an order by the Court on an application under section 574 or 575 (objection to variation of class rights) forward a copy of the order to the Registrar.

(2) If default is made in complying with this section a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who commits a contravention of this section is liable to a level 2 fine.

Matters to be notified to the Registrar

577. Notice of name or other designation of class of shares

(1) Where a company assigns a name or other designation, or a new name or other designation, to any class or description of its shares, it must within one month from doing so deliver to-

(a) (in the case of a company other than a restricted scope company) the Registrar, or

(b) (in the case of a restricted scope company) each of its members,

a notice giving particulars of the name or designation so assigned.

(2) If default is made in complying with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who commits a contravention of this section is liable to a level 2 fine.

578. Notice of particulars of variation of rights attached to shares

(1) Where the rights attached to any shares of a company are varied, the company must within one month from the date on which the variation is made deliver to-

(a) (in the case of a company other than a restricted scope company) the Registrar, or

(b) (in the case of a restricted scope company) each of its members,

a notice giving particulars of the variation.

(2) If default is made in complying with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who commits a contravention of this section is liable to a level 2 fine

579. Notice of new class of members

(1) If a company not having a share capital creates a new class of members, the company must within one month from the date on which the new class is created deliver to-

(a) (in the case of a company other than a restricted scope company) the Registrar, or

(b) (in the case of a restricted scope company) each of its members,

a notice containing particulars of the rights attached to that class.

(2) If default is made in complying with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who commits a contravention of this section is liable to a level 2 fine.

580. Notice of name or other designation of class of members

(1) Where a company not having a share capital assigns a name or other designation, or a new name or other designation, to any class of its members, it must within one month from doing so deliver to-

(a) (in the case of a company other than a restricted scope company) the Registrar, or

(b) (in the case of a restricted scope company) each of its members,

a notice giving particulars of the name or designation so assigned.

(2) If default is made in complying with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who commits a contravention of this section is liable to a level 2 fine.

581. Notice of particulars of variation of class rights

(1) If the rights of any class of members of a company not having a share capital are varied, the company must within one month from the date on which the variation is made deliver to-

(a) (in the case of a company other than a restricted scope company) the Registrar, or

(b) (in the case of a restricted scope company) each of its members,

a notice containing particulars of the variation.

(2) If default is made in complying with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who commits a contravention of this section is liable to a level 2 fine.

Chapter 8

REDUCTION OF SHARE CAPITAL

Introductory

582. Circumstances in which a company may reduce its share capital

(1) A limited company having a share capital may reduce its share capital-

(a) in the case of a private company limited by shares, by special resolution supported by a solvency statement (see sections 583 to 585),

(b) in any case, by special resolution confirmed by the Court (see sections 586 to 592).

(2) A company may not reduce its capital under subsection 582(1)(a) if as a result of the reduction there would no longer be any member of the company holding shares other than redeemable shares.

(3) Subject to that, a company may reduce its share capital under this section in any way.

(4) In particular, a company may-

(a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up, or

(b) either with or without extinguishing or reducing liability on any of its shares-

(i) cancel any paid-up share capital that is lost or unrepresented by available assets, or

(ii) repay any paid-up share capital in excess of the company's wants.

(5) A special resolution under this section may not provide for a reduction of share capital to take effect later than the date on which the resolution has effect in accordance with this Chapter.

(6) This Chapter (apart from subsection (5) above) has effect subject to any provision of the company's articles restricting or prohibiting the reduction of the company's share capital.

Private companies

583. Reduction of capital supported by solvency statement

(1) A resolution for reducing share capital of a private company limited by shares is supported by a solvency statement if-

(a) the directors of the company make a statement of the solvency of the company in accordance with section 584 (a "solvency statement") not more than 15 days before the date on which the resolution is passed, and

(b) the resolution and solvency statement are registered in accordance with section 585.

(2) Where the resolution is proposed as a written resolution, a copy of the solvency statement must be sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him.

(3) Where the resolution is proposed at a general meeting, a copy of the solvency statement must be made available for inspection by members of the company throughout that meeting.

(4) The validity of a resolution is not affected by a failure to comply with subsection (2) or (3).

584. Solvency statement

(1) A solvency statement is a statement that each of the directors-

(a) has formed the opinion, as regards the company's situation at the date of the statement, that there is no ground on which the company could then be found to be unable to pay (or otherwise discharge) its debts, and

(b) has also formed the opinion-

(i) if it is intended to commence the winding up of the company within 12 months of that date, that the company will be able to pay (or otherwise discharge) its debts in full within 12 months of the commencement of the winding up, or

(ii) in any other case, that the company will be able to pay (or otherwise discharge) its debts as they fall due during the year immediately following that date.

(2) In forming those opinions, the directors must take into account all of the company's liabilities (including any contingent or prospective liabilities).

(3) The solvency statement must be in the prescribed form and must state-

(a) the date on which it is made, and

(b) the name of each director of the company.

(4) If the directors make a solvency statement without having reasonable grounds for the opinions expressed in it, and the statement is delivered to the Registrar, a contravention of these Regulations is committed by every director who is in default.

(5) A person who commits a contravention of subsection (4) is liable to a fine of up to level 8.

585. Registration of resolution and supporting documents

(1) Within 14 days after the resolution for reducing share capital is passed the company must deliver to (in the case of a company other than a restricted scope company) the Registrar or (in the case of a restricted scope company) each of its members-

(a) a copy of the solvency statement, and

(b) a statement of capital,

(c) the copy of the resolution itself that is required to be delivered to the Registrar under Chapter 3 of Part 3.

(2) The statement of capital must state with respect to the company's share capital as reduced by the resolution-

(a) the total number of shares of the company,

(b) the aggregate issue price of those shares,

(c) for each class of shares-

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate issue price of shares of that class, and

(d) the amount paid up and the amount (if any) unpaid on each share.

(3) The Registrar must register the documents delivered to him under subsection (1) on receipt.

(4) The resolution does not take effect until those documents are registered.

(5) The company must also deliver to the Registrar, within 14 days after the resolution is passed, a statement by the directors confirming that the solvency statement was-

(a) made not more than 15 days before the date on which the resolution was passed, and

(b) provided to members in accordance with section 583(2) or (3).

(6) The validity of a resolution is not affected by-

(a) a failure to deliver the documents required to be delivered to the Registrar under subsection (1) within the time specified in that subsection, or

(b) a failure to comply with subsection (5).

(7) If the company delivers to the Registrar a solvency statement that was not provided to members in accordance with section 583(2) or (3), a contravention of these Regulations is committed by every officer of the company who is in default.

(8) If default is made in complying with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(9) A person who commits a contravention of subsection (7) or (8) is liable to a fine of up to level 5.

586. Application to Court for order of confirmation

(1) Where a company has passed a resolution for reducing share capital, it may apply to the Court for an order confirming the reduction.

(2) If the proposed reduction of capital involves either-

(a) diminution of liability in respect of unpaid share capital, or

(b) the payment to a shareholder of any paid-up share capital,

section 587 (creditors entitled to object to reduction) applies unless the Court directs otherwise.

(3) The Court may, if having regard to any special circumstances of the case it thinks proper to do so, direct that section 587 is not to apply as regards any class or classes of creditors.

(4) The Court may direct that section 587 is to apply in any other case.

587. Creditors entitled to object to reduction

(1) Where this section applies (see section 586(2) and (4)), every creditor of the company who-

(a) at the date fixed by the Court is entitled to any debt or claim that, if that date were the commencement of the winding up of the company would be admissible in proof against the company, and

(b) can show that there is a real likelihood that the reduction would result in the company being unable to discharge his debt or claim when it fell due,

is entitled to object to the reduction of capital.

(2) The Court shall settle a list of creditors entitled to object.

(3) For that purpose the Court-

(a) shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and

(b) may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction of capital.

(4) If a creditor entered on the list whose debt or claim is not discharged or has not determined does not consent to the reduction, the Court may, if it thinks fit, dispense with the consent of that creditor on the company securing payment of his debt or claim.

(5) For this purpose the debt or claim must be secured by appropriating (as the Court may direct) the following amount-

(a) if the company admits the full amount of the debt or claim or, though not admitting it, is willing to provide for it, the full amount of the debt or claim,

(b) if the company does not admit, and is not willing to provide for, the full amount of the debt or claim, or if the amount is contingent or not ascertained, an amount fixed by the Court after the like enquiry and adjudication as if the company were being wound up by the Court.

588. Offences in connection with list of creditors

(1) If an officer of the company-

(a) intentionally or recklessly-

(i) conceals the name of a creditor entitled to object to the reduction of capital, or

(ii) misrepresents the nature or amount of the debt or claim of a creditor, or

(b) is knowingly concerned in any such concealment or misrepresentation,

he commits a contravention of these Regulations.

(2) A person commits a contravention of this section is liable to a level 2 fine.

589. Court order confirming reduction

(1) The Court may make an order confirming the reduction of capital on such terms and conditions as it thinks fit.

(2) The Court must not confirm the reduction unless it is satisfied, with respect to every creditor of the company who is entitled to object to the reduction of capital that either-

(a) his consent to the reduction has been obtained, or

(b) his debt or claim has been discharged, or has determined or has been secured.

(3) Where the Court confirms the reduction, it may order the company to publish (as the Court directs) the reasons for reduction of capital, or such other information in regard to it as the Court thinks expedient with a view to giving proper information to the public, and (if the Court thinks fit) the causes that led to the reduction.

(4) The Court may, if for any special reason it thinks proper to do so, make an order directing that the company must, during such period (commencing on or at any time after the date of the order) as is specified in the order, add to its name as its last words the words "and reduced".

If such an order is made, those words are, until the end of the period specified in the order, deemed to be part of the company's name.

590. Registration of order and statement of capital

(1) The Registrar, on production of an order of the Court confirming the reduction of a company's share capital and the delivery of a copy of the order and of a statement of capital (approved by the Court), shall register the order and statement.

This is subject to section 591 (public company reducing capital below authorised minimum).

(2) The statement of capital must state with respect to the company's share capital as altered by the order-

(a) the total number of shares of the company,

(b) the aggregate issue price of those shares,

(c) for each class of shares-

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate issue price of shares of that class, and

(d) the amount paid up and the amount (if any) unpaid on each share.

(3) The resolution for reducing share capital, as confirmed by the Court's order, takes effect-

(a) in the case of a reduction of share capital that forms part of a compromise or arrangement sanctioned by the Court under Part 25 (arrangements and reconstructions)-

(i) on delivery of the order and statement of capital to the Registrar, or

(ii) if the Court so orders, on the registration of the order and statement of capital,

(b) in any other case, on the registration of the order and statement of capital.

(4) Notice of the registration of the order and statement of capital must be published in such manner as the Court may direct.

(5) The Registrar must certify the registration of the order and statement of capital.

(6) The certificate-

(a) shall be in electronic form; and

(b) is conclusive evidence-

(i) that the requirements of these Regulations with respect to the reduction of share capital have been complied with, and

(ii) that the company's share capital is as stated in the statement of capital.

(7) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

Public companies

591. Public company reducing capital below authorised minimum

(1) This section applies where the Court makes an order confirming a reduction of a public company's capital that has the effect of bringing its allotted share capital below the authorised minimum.

(2) The Registrar must not register the order unless either-

(a) the Court so directs, or

(b) the company is first re-registered as a private company.

(3) Section 592 provides an expedited procedure for re-registration in these circumstances.

592. Expedited procedure for re-registration as a private company

(1) The Court may authorise the company to be re-registered as a private company without its having passed the special resolution required by section 81(1) (re-registration of public company as private limited company).

(2) If it does so, the Court must specify in the order the changes to the company's name and articles to be made in connection with the re-registration.

(3) The company may then be re-registered as a private company if an application to that effect is delivered to the Registrar together with-

(a) a copy of the Court's order, and

(b) notice of the company's name, and a copy of the company's articles, as altered by the Court's order.

(4) On receipt of such an application the Registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(5) The certificate must state that it is issued on re-registration and the date on which it is issued.

(6) On the issue of the certificate-

(a) the company by virtue of the issue of the certificate becomes a private company, and

(b) the changes in the company's name and articles take effect.

(7) The certificate is conclusive evidence that the requirements of these Regulations as to re-registration have been complied with.(8) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

Effect of reduction of capital

593. Liability of members following reduction of capital

(1) Where a company's share capital is reduced a member of the company (past or present) is not liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between-

(a) the issue price of the share as notified to the Registrar in the statement of capital delivered under section 585 or 590, and

(b) the amount paid on the share or the reduced amount (if any) which is deemed to have been paid on it, as the case may be.

(2) This is subject to section 594 (liability to creditor in case of omission from list).

(3) Nothing in this section affects the rights of the contributories among themselves.

594. Liability to creditor in case of omission from list of creditors

(1) This section applies where, in the case of a reduction of capital confirmed by the Court-

(a) a creditor entitled to object to the reduction of share capital is by reason of his ignorance-

(i) of the proceedings for reduction of share capital, or

(ii) of their nature and effect with respect to his debt or claim,

not entered on the list of creditors, and

(b) after the reduction of capital the company is unable to pay the amount of his debt or claim.

(2) Every person who was a member of the company at the date on which the resolution for reducing capital took effect under section 590(3) is liable to contribute for the payment of the debt or claim an amount not exceeding that which he would have been liable to contribute if the company had commenced to be wound up on the day before that date.

(3) If the company is wound up, the Court on the application of the creditor in question, and proof of ignorance as mentioned in subsection 594(1)(a), may if it thinks fit-

(a) settle accordingly a list of persons liable to contribute under this section, and

(b) make and enforce calls and orders on them as if they were ordinary contributories in a winding up.

(4) The reference in subsection 594(1)(b) to a company being unable to pay the amount of a debt or claim has the same meaning as in section 200 (definition of inability to pay debts) of the Insolvency Regulations 2015.

Chapter 9

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

595. Treatment of reserve arising from reduction of capital

(1) A reserve arising from the reduction of a company's share capital is not distributable, subject to any provision made by order under this section.

(2) The Board may make rules which specify cases in which-

(a) the prohibition in subsection (1) does not apply, and

(b) the reserve is to be treated for the purposes of Part 22 (distributions) as a realised profit.

596. Shares no bar to damages against company

A person is not debarred from obtaining damages or other compensation from a company by reason only of his holding or having held shares in the company or any right to apply or subscribe for shares or to be included in the company's register of members in respect of shares.

597. Public companies: duty of directors to call meeting on serious loss of capital

(1) Where the net assets of a public company are half or less of its called-up share capital, the directors must call a general meeting of the company to consider whether any, and if so what, steps should be taken to deal with the situation.

(2) They must do so not later than one month from the earliest day on which that fact is known to a director of the company.

(3) The meeting must be convened for a date not later than 56 days from that day.

(4) If there is a failure to convene a meeting as required by this section, each of the directors of the company who-

(a) knowingly authorises or permits the failure, or

(b) after the period during which the meeting should have been convened, knowingly authorises or permits the failure to continue,

commits a contravention of these Regulations.

(5) A person who commits a contravention of this section is liable to a fine of up to level 8.

(6) Nothing in this section authorises the consideration at a meeting convened in pursuance of subsection (1) of any matter that could not have been considered at that meeting apart from this section.

Part 17

ACQUISITION BY LIMITED COMPANY OF ITS OWN SHARES

Chapter 1

GENERAL PROVISIONS

Introductory

598. General rule against limited company acquiring its own shares

(1) A limited company must not acquire its own shares, whether by purchase, subscription or otherwise, except in accordance with the provisions of this Part.

(2) If a company purports to act in contravention of this section-

(a) a contravention of these Regulations is committed by-

(i) the company, and

(ii) every officer of the company who is in default, and

(b) the purported acquisition is void.

(3) A person who commits a contravention of this section is liable to a fine of up to level 8.

599. Exceptions to general rule

(1) A limited company may acquire any of its own fully paid shares otherwise than for valuable consideration.

(2) Section 598 does not prohibit-

(a) the acquisition of shares in a reduction of capital duly made,

(b) the purchase of shares in pursuance of an order of the Court under-

(i) section 82 (application to Court to cancel resolution for re-registration as a private company),

(ii) section 663(6) (powers of Court on objection to redemption or purchase of shares out of capital),

(iii) section 697 (remedial order in case of breach of prohibition of public offers by private company), or

(iv) Part 28 (protection of members against unfair prejudice),

(c) the forfeiture of shares, or the acceptance of shares surrendered in lieu, in pursuance of the company's articles, for failure to pay any sum payable in respect of the shares.

600. Treatment of shares held by nominee

(1) This section applies where shares in a limited company-

(a) are taken by an initial shareholder as nominee of the company,

(b) are issued to a nominee of the company, or

(c) are acquired by a nominee of the company, partly paid up, from a third person.

(2) For all purposes-

(a) the shares are to be treated as held by the nominee on his own account, and

(b) the company is to be regarded as having no beneficial interest in them.

(3) This section does not apply-

(a) to shares acquired otherwise than by subscription by a nominee of a public company, where-

(i) a person acquires shares in the company with financial assistance given to him, directly or indirectly, by the company for the purpose of or in connection with the acquisition, and

(ii) the company has a beneficial interest in the shares,

(b) to shares acquired by a nominee of the company when the company has no beneficial interest in the shares.

601. Liability of others where nominee fails to make payment in respect of shares

(1) This section applies where shares in a limited company-

(a) are taken by an initial shareholder as nominee of the company,

(b) are issued to a nominee of the company, or

(c) are acquired by a nominee of the company, partly paid up, from a third person.

(2) If the nominee, having been called on to pay any amount for the purposes of paying up the shares, fails to pay that amount within 21 days from being called on to do so, then-

(a) in the case of shares that he agreed to take as an initial shareholder, the other initial shareholders, and

(b) in any other case, the directors of the company when the shares were issued to or acquired by him,

are jointly and severally liable with him to pay that amount.

(3) If in proceedings for the recovery of an amount under subsection (2) it appears to the Court that the initial shareholder or director-

(a) has acted honestly and reasonably, and

(b) having regard to all the circumstances of the case, ought fairly to be relieved from liability,

the Court may relieve him, either wholly or in part, from his liability on such terms as the Court thinks fit.

(4) If an initial shareholder or a director of a company has reason to apprehend that a claim will or might be made for the recovery of any such amount from him-

(a) he may apply to the Court for relief, and

(b) the Court has the same power to relieve him as it would have had in proceedings for recovery of that amount.

(5) This section does not apply to shares acquired by a nominee of the company when the company has no beneficial interest in the shares.

Shares held by or for a public company

602. Duty to cancel shares in public company held by or for the company

(1) This section applies in the case of a public company-

(a) where shares in the company are forfeited, or surrendered to the company in lieu of forfeiture, in pursuance of the articles, for failure to pay any sum payable in respect of the shares,

(b) where shares in the company are acquired by it (otherwise than in accordance with this Part or Part 28 (protection of members against unfair prejudice)) and the company has a beneficial interest in the shares,

(c) where a nominee of the company acquires shares in the company from a third party without financial assistance being given directly or indirectly by the company and the company has a beneficial interest in the shares, or

(d) where a person acquires shares in the company, with financial assistance given to him, directly or indirectly, by the company for the purpose of or in connection with the acquisition, and the company has a beneficial interest in the shares.

(2) Unless the shares or any interest of the company in them are previously disposed of, the company must-

(a) cancel the shares and diminish the amount of the company's share capital by the value of the shares cancelled, and

(b) where the effect is that the value of the company's allotted share capital is brought below the authorised minimum, apply for re-registration as a private company, stating the effect of the cancellation.

(3) It must do so no later than-

(a) in a case within subsection 602(1)(a), three years from the date of the forfeiture or surrender,

(b) in a case within subsection 602(1)(b) or (c), three years from the date of the acquisition,

(c) in a case within subsection 602(1)(d), one year from the date of the acquisition.

(4) The directors of the company may take any steps necessary to enable the company to comply with this section, and may do so without complying with the provisions of Chapter 8 of Part 16 (reduction of capital).

See also section 604 (re-registration as private company in consequence of cancellation).

(5) Neither the company nor, in a case within subsection 602(1)(c) or (d), the nominee or other shareholder may exercise any voting rights in respect of the shares.

(6) Any purported exercise of those rights is void.

603. Notice of cancellation of shares

(1) Where a company cancels shares in order to comply with section 602, it must within one month after the shares are cancelled give notice to:

(a) (in the case of a company other than a restricted scope company) the Registrar, or

(b) (in the case of a restricted scope company) each of its members,

specifying the shares cancelled.

(2) The notice must be accompanied by a statement of capital.

(3) The statement of capital must state with respect to the company's share capital immediately following the cancellation-

(a) the total number of shares of the company,

(b) the aggregate issue price of those shares,

(c) for each class of shares-

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate issue price of shares of that class, and

(d) the amount paid up and the amount (if any) unpaid on each share.

(4) If default is made in complying with this section, A contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits a contravention under this section is liable to a level 2 fine.

604. Re-registration as private company in consequence of cancellation

(1) Where a company is obliged to re-register as a private company to comply with section 602, the directors may resolve that the company should be so re-registered.

Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to any such resolution.

(2) The resolution may make such changes-

(a) in the company's name, and

(b) in the company's articles,

as are necessary in connection with its becoming a private company.

(3) The application for re-registration must contain a statement of the company's proposed name on re-registration.

(4) The application must be accompanied by-

(a) a copy of the resolution (unless a copy has already been forwarded under Chapter 3 of Part 3),

(b) a copy of the company's articles as amended by the resolution, and

(c) a statement of compliance.

(5) The statement of compliance required is a statement that the requirements of this section as to re-registration as a private company have been complied with.

(6) The Registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be re-registered as a private company.

605. Issue of certificate of incorporation on re-registration

(1) If on an application under section 604 the Registrar is satisfied that the company is entitled to be re-registered as a private company, the company shall be reregistered accordingly.

(2) The Registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate must state that it is issued on re-registration and the date on which it is issued.

(4) On the issue of the certificate-

(a) the company by virtue of the issue of the certificate becomes a private company, and

(b) the changes in the company's name and articles take effect.

(5) The certificate is conclusive evidence that the requirements of these Regulations as to re-registration have been complied with.

(6) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

606. Effect of failure to re-register

(1) If a public company that is required by section 602 to apply to be re-registered as a private company fails to do so before the end of the period specified in subsection (3) of that section, Chapter 1 of Part 19 (prohibition of public offers by private company) applies to it as if it were a private company.

(2) Subject to that, the company continues to be treated as a public company until it is so re-registered.

607. Offence in case of failure to cancel shares or re-register

(1) This section applies where a company, when required to do by section 602-

(a) fails to cancel any shares, or

(b) fails to make an application for re-registration as a private company,

within the time specified in subsection (3) of that section.

(2) A contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who commits a contravention under this section is liable to a fine of up to level 8.

608. Application of provisions to company re-registering as public company

(1) This section applies where, after shares in a private company-

(a) are forfeited in pursuance of the company's articles or are surrendered to the company in lieu of forfeiture,

(b) are acquired by the company (otherwise than by any of the methods permitted by this Part or Part 28 (protection of members against unfair prejudice)), the company having a beneficial interest in the shares,

(c) are acquired by a nominee of the company from a third party without financial assistance being given directly or indirectly by the company, the company having a beneficial interest in the shares, or

(d) are acquired by a person with financial assistance given to him, directly or indirectly, by the company for the purpose of or in connection with the acquisition, the company having a beneficial interest in the shares,

the company is re-registered as a public company.

(2) In that case the provisions of sections 602 to 607 apply to the company as if it had been a public company at the time of the forfeiture, surrender or acquisition, subject to the following modification.

(3) The modification is that the period specified in section 602(3)(a), (b) or (c) (period for complying with obligations under that section) runs from the date of the re-registration of the company as a public company.

609. Transfer to reserve on acquisition of shares by public company or nominee

(1) Where-

(a) a public company, or a nominee of a public company, acquires shares in the company, and

(b) those shares are shown in a balance sheet of the company as an asset,

an amount equal to the value of the shares must be transferred out of profits available for dividend to a reserve fund and is not then available for distribution.

(2) Subsection (1) applies to an interest in shares as it applies to shares.

As it so applies the reference to the value of the shares shall be read as a reference to the value to the company of its interest in the shares.

Charges by public companies on own shares

610. Public companies: general rule against lien or charge on own shares

(1) A lien or other charge of a public company on its own shares (whether taken expressly or otherwise) is void, except as permitted by this section.

(2) In the case of any description of company, a charge is permitted if the shares are not fully paid up and the charge is for an amount payable in respect of the shares.

(3) In the case of a company whose ordinary business-

(a) includes the lending of money, or

(b) consists of the provision of credit or the bailment of goods under a hire-purchase agreement, or both,

a charge is permitted (whether the shares are fully paid or not) if it arises in connection with a transaction entered into by the company in the ordinary course of that business.

(4) In the case of a company that has been re-registered as a public company, a charge is permitted if it was in existence immediately before the application for re-registration.

Supplementary provisions

611. Interests to be disregarded in determining whether company has beneficial interest

In determining for the purposes of this Chapter whether a company has a beneficial interest in shares, there shall be disregarded any such interest as is mentioned in-

(a) section 612 (residual interest under pension scheme or employees' share scheme),

(b) section 613 (employer's charges and other rights of recovery), or

(c) section 614 (rights as personal representative or trustee).

612. Residual interest under pension scheme or employees' share scheme

(1) Where the shares are held on trust for the purposes of a pension scheme or employees' share scheme, there shall be disregarded any residual interest of the company that has not vested in possession.

(2) A "residual interest" means a right of the company to receive any of the trust property in the event of-

(a) all the liabilities arising under the scheme having been satisfied or provided for,

(b) the company ceasing to participate in the scheme, or

(c) the trust property at any time exceeding what is necessary for satisfying the liabilities arising or expected to arise under the scheme.

(3) In subsection (2)-

(a) the reference to a right includes a right dependent on the exercise of a discretion vested by the scheme in the trustee or another person, and

(b) the reference to liabilities arising under a scheme includes liabilities that have resulted, or may result, from the exercise of any such discretion.

(4) For the purposes of this section a residual interest vests in possession-

(a) in a case within subsection 612(2)(a), on the occurrence of the event mentioned there (whether or not the amount of the property receivable pursuant to the right is ascertained),

(b) in a case within subsection 612(2)(b) or (c), when the company becomes entitled to require the trustee to transfer to it any of the property receivable pursuant to that right.

(5) Where by virtue of this section shares are exempt from section 600 or 601 (shares held by company's nominee) at the time they are taken, issued or acquired but the residual interest in question vests in possession before they are disposed of or fully paid up, those sections apply to the shares as if they had been taken, issued or acquired on the date on which that interest vests in possession.

(6) Where by virtue of this section shares are exempt from sections 602 to 610 (shares held by or for public company) at the time they are acquired but the residual interest in question vests in possession before they are disposed of, those sections apply to the shares as if they had been acquired on the date on which the interest vests in possession.

613. Employer's charges and other rights of recovery

(1) Where the shares are held on trust for the purposes of a pension scheme there shall be disregarded-

(a) any charge or lien on, or set-off against, any benefit or other right or interest under the scheme for the purpose of enabling the employer or former employer of a member of the scheme to obtain the discharge of a monetary obligation due to him from the member,

(b) any right to receive from the trustee of the scheme, or as trustee of the scheme to retain, an amount that can be recovered or retained as reimbursement or partial reimbursement for any contributions equivalent premium paid in connection with the scheme, or

(2) Where the shares are held on trust for the purposes of an employees' share scheme, there shall be disregarded any charge or lien on, or set-off against, any benefit or other right or interest under the scheme for the purpose of enabling the employer or former employer of a member of the scheme to obtain the discharge of a monetary obligation due to him from the member.

614. Rights as personal representative or trustee

Where the company is a personal representative or trustee, there shall be disregarded any rights that the company has in that capacity including, in particular-

(a) any right to recover its expenses or be remunerated out of the estate or trust property, and

(b) any right to be indemnified out of that property for any liability incurred by reason of any act or omission of the company in the performance of its duties as personal representative or trustee.

615. Meaning of "pension scheme"

(1) In this Chapter "pension scheme" means a scheme for the provision of benefits consisting of or including relevant benefits for or in respect of employees or former employees.

(2) In subsection (1) "relevant benefits" means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death or in anticipation of retirement or, in connection with past service, after retirement or death.

Chapter 2

FINANCIAL ASSISTANCE FOR PURCHASE OF OWN SHARES

Introductory

616. Meaning of "financial assistance"

(1) In this Chapter "financial assistance" means-

(a) financial assistance given by way of gift,

(b) financial assistance given-

(i) by way of guarantee, security or indemnity (other than an indemnity in respect of the indemnifier's own neglect or default), or

(ii) by way of release or waiver,

(c) financial assistance given-

(i) by way of a loan or any other agreement under which any of the obligations of the person giving the assistance are to be fulfilled at a time when in accordance with the agreement any obligation of another party to the agreement remains unfulfilled, or

(ii) by way of the novation of, or the assignment of rights arising under, a loan or such other agreement, or

(d) any other financial assistance given by a company where-

(i) the net assets of the company are reduced to a material extent by the giving of the assistance, or

(ii) the company has no net assets.

(2) "Net assets" here means the aggregate amount of the company's assets less the aggregate amount of its liabilities.

(3) For this purpose a company's liabilities include any provision made in the company's accounts.

Circumstances in which financial assistance is prohibited

617. Assistance for acquisition of shares in public company

(1) Where a person is acquiring or proposing to acquire shares in a public company, it is not lawful for that company, or a company that is a subsidiary of that company, to give financial assistance directly or indirectly for the purpose of the acquisition before or at the same time as the acquisition takes place, except as provided for by this Chapter.

(2) Subsection (1) does not prohibit a company from giving financial assistance for the acquisition of shares in it or its holding company if-

(a) the company's principal purpose in giving the financial assistance is not to give it for the purpose of any such acquisition, or

(b) the giving of the financial assistance for that purpose is only an incidental part of some larger purpose of the company,

and the financial assistance is given in good faith in the interests of the company.

(3) Where-

(a) a person has acquired shares in a company, and

(b) a liability has been incurred (by that or another person) for the purpose of the acquisition,

it is not lawful for that company, or a company that is a subsidiary of that company, to give financial assistance directly or indirectly for the purpose of reducing or discharging the liability if, at the time the financial assistance is given, the company in which the shares were acquired is a public company.

(4) Subsection (3) does not prohibit a company from giving financial assistance if-

(a) the company's principal purpose in giving the financial assistance is not to reduce or discharge any liability incurred by a person for the purpose of the acquisition of shares in the company or its holding company, or

(b) the reduction or discharge of any such liability is only an incidental part of some larger purpose of the company,

and the financial assistance is given in good faith in the interests of the company.

(5) This section has effect subject to sections 620 and 621 (unconditional and conditional exceptions to prohibition).

618. Assistance by public company for acquisition of shares in its private holding company

(1) Where a person is acquiring or proposing to acquire shares in a private company, it is not lawful for a public company that is a subsidiary of that company to give financial assistance directly or indirectly for the purpose of the acquisition before or at the same time as the acquisition takes place.

(2) Subsection (1) does not prohibit a company from giving financial assistance for the acquisition of shares in its holding company if-

(a) the company's principal purpose in giving the financial assistance is not to give it for the purpose of any such acquisition, or

(b) the giving of the financial assistance for that purpose is only an incidental part of some larger purpose of the company,

and the financial assistance is given in good faith in the interests of the company.

(3) Where-

(a) a person has acquired shares in a private company, and

(b) a liability has been incurred (by that or another person) for the purpose of the acquisition,

it is not lawful for a public company that is a subsidiary of that company to give financial assistance directly or indirectly for the purpose of reducing or discharging the liability.

(4) Subsection (3) does not prohibit a company from giving financial assistance if-

(a) the company's principal purpose in giving the financial assistance is not to reduce or discharge any liability incurred by a person for the purpose of the acquisition of shares in its holding company, or

(b) the reduction or discharge of any such liability is only an incidental part of some larger purpose of the company,

and the financial assistance is given in good faith in the interests of the company.

(5) This section has effect subject to sections 620 and 621 (unconditional and conditional exceptions to prohibition).

619. Prohibited financial assistance a contravention of these Regulations

(1) If a company contravenes section 617(1) or (3) or section 618(1) or (3) (prohibited financial assistance) a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(2) A person who commits a contravention under this section is liable to a level 3 fine.

620. Unconditional exceptions

(1) Neither section 617 nor section 618 prohibits a transaction to which this section applies.

(2) Those transactions are-

(a) a distribution of the company's assets by way of-

(i) dividend lawfully made, or

(ii) distribution in the course of a company's winding up,

(b) an allotment of bonus shares,

(c) a reduction of capital under Chapter 10 of Part 16,

(d) a redemption of shares under Chapter 3 or a purchase of shares under Chapter 4 of this Part,

(e) anything done in pursuance of an order of the Court under Part 25 (order sanctioning compromise or arrangement with members or creditors),

(f) anything done under an arrangement made in pursuance of a duly appointed liquidator accepting shares as consideration for sale of company's property,

(g) anything done under an arrangement made between a company and its creditors that is binding on the creditors.

621. Conditional exceptions

(1) Neither section 617 nor section 618 prohibits a transaction to which this section applies-

(a) if the company giving the financial assistance is a private company, or

(b) if the company giving the financial assistance is a public company and-

(i) the company has net assets that are not reduced by the giving of the assistance, or

(ii) to the extent that those assets are so reduced, the assistance is provided out of distributable profits.

(2) The transactions to which this section applies are-

(a) where the lending of money is part of the ordinary business of the company, the lending of money in the ordinary course of the company's business,

(b) the provision by the company, in good faith in the interests of the company or its holding company, of financial assistance for the purposes of an employees' share scheme,

(c) the provision of financial assistance by the company for the purposes of or in connection with anything done by the company (or another company in the same group) for the purpose of enabling or facilitating transactions in shares in the first-mentioned company or its holding company between, and involving the acquisition of beneficial ownership of those shares by-

(i) bona fide employees or former employees of that company (or another company in the same group), or

(ii) spouses, widows, widowers, or minor children or step-children of any such employees or former employees;

(d) the making by the company of loans to persons (other than directors) employed in good faith by the company with a view to enabling those persons to acquire fully paid shares in the company or its holding company to be held by them by way of beneficial ownership.

(3) The references in this section to "net assets" are to the amount by which the aggregate of the company's assets exceeds the aggregate of its liabilities.

(4) For this purpose-

(a) the amount of both assets and liabilities shall be taken to be as stated in the company's accounting records immediately before the financial assistance is given, and

(b) "liabilities" includes any amount retained as reasonably necessary for the purpose of providing for a liability the nature of which is clearly defined and that is either likely to be incurred or certain to be incurred but uncertain as to amount or as to the date on which it will arise.

(5) For the purposes of subsection (2)(c) a company is in the same group as another company if it is a holding company or subsidiary of that company or a subsidiary of a holding company of that company.

622. Definitions for this Chapter

(1) In this Chapter-

"distributable profits", in relation to the giving of any financial assistance-

(a) means those profits out of which the company could lawfully make a distribution equal in value to that assistance, and

(b) includes, in a case where the financial assistance consists of or includes, or is treated as arising in consequence of, the sale, transfer or other disposition of a non-cash asset, any profit that, if the company were to make a distribution of that character would be available for that purpose (see section 772 (distributions in kind: treatment of unrealised profits)), and

"distribution" has the same meaning as in Part 22 (distributions) (see section 760 (meaning of "distribution")).

(2) In this Chapter-

(a) a reference to a person incurring a liability includes his changing his financial position by making an agreement or arrangement (whether enforceable or unenforceable, and whether made on his own account or with any other person) or by any other means, and

(b) a reference to a company giving financial assistance for the purposes of reducing or discharging a liability incurred by a person for the purpose of the acquisition of shares includes its giving such assistance for the purpose of

wholly or partly restoring his financial position to what it was before the acquisition took place.

Chapter 3

REDEEMABLE SHARES

623. Power of limited company to issue redeemable shares

(1) A limited company having a share capital may issue shares that are to be redeemed or are liable to be redeemed at the option of the company or the shareholder ("redeemable shares"), subject to the following provisions.

(2) The articles of a private limited company may exclude or restrict the issue of redeemable shares.

(3) A public limited company may only issue redeemable shares if it is authorised to do so by its articles.

(4) No redeemable shares may be issued at a time when there are no issued shares of the company that are not redeemable.

624. Terms and manner of redemption

(1) The directors of a limited company may determine the terms, conditions and manner of redemption of shares if they are authorised to do so-

(a) by the company's articles, or

(b) by a resolution of the company.

(2) A resolution under subsection 624(1)(b) may be an ordinary resolution, even though it amends the company's articles.

(3) Where the directors are authorised under subsection (1) to determine the terms, conditions and manner of redemption of shares-

(a) they must do so before the shares are allotted, and

(b) any obligation of the company to state in a statement of capital the rights attached to the shares extends to the terms, conditions and manner of redemption.

(4) Where the directors are not so authorised, the terms, conditions and manner of redemption of any redeemable shares must be stated in the company's articles.

625. Payment for redeemable shares

(1) Redeemable shares in a limited company may not be redeemed unless they are fully paid.

(2) The terms of redemption of shares in a limited company may provide that the amount payable on redemption may, by agreement between the company and the holder of the shares, be paid on a date later than the redemption date.

(3) Unless redeemed in accordance with a provision authorised by subsection (2), the shares must be paid for on redemption.

626. Financing of redemption

(1) A private limited company may redeem redeemable shares out of capital in accordance with Chapter 5.

(2) Subject to that, redeemable shares in a limited company may only be redeemed out of-

(a) distributable profits of the company, or

(b) the proceeds of a fresh issue of shares made for the purposes of the redemption.

(3) This section is subject to section 676(4) (terms of redemption enforceable in a winding up).

627. Redeemed shares treated as cancelled

Where shares in a limited company are redeemed-

(a) the shares are treated as cancelled, and

(b) the amount of the company's issued share capital is diminished accordingly by the issue price of the shares redeemed.

628. Notice to Registrar of redemption

(1) If a limited company redeems any redeemable shares it must within one month after doing so give notice to the Registrar, specifying the shares redeemed.

(2) The notice must be accompanied by a statement of capital.

(3) The statement of capital must state with respect to the company's share capital immediately following the redemption-

(a) the total number of shares of the company,

(b) the aggregate issue price of those shares,

(c) for each class of shares-

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate issue price of shares of that class, and

(d) the amount paid up and the amount (if any) unpaid on each share.

(4) If default is made in complying with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits a contravention under this section is liable to a level 2 fine.

(6) This section does not apply to a restricted scope company.

Chapter 4

PURCHASE OF OWN SHARES

General Provisions

629. Power of limited company to purchase own shares

(1) A limited company having a share capital may purchase its own shares (including any redeemable shares), subject to-

(a) the following provisions of this Chapter, and

(b) any restriction or prohibition in the company's articles.

(2) A limited company may not purchase its own shares if as a result of the purchase there would no longer be any issued shares of the company other than redeemable shares or shares held as treasury shares.

630. Payment for purchase of own shares

(1) A limited company may not purchase its own shares unless they are fully paid.

(2) Where a limited company purchases its own shares, the shares must be paid for on purchase.

(3) But subsection (2) does not apply in a case where a private limited company is purchasing shares for the purposes of or pursuant to an employees' share scheme.

631. Financing of purchase of own shares

(1) A private limited company may purchase its own shares-

(a) out of capital in accordance with Chapter 5, and

(b) with cash (if authorised to do so by its articles) up to an amount in a financial year not exceeding the lower of-

(i) 25,000 US dollars, or

(ii) the value of 5% of its share capital.

(2) If the share capital of the company is not denominated in US dollars, the value in US dollars of the share capital shall be calculated for the purposes of subsection 631(1)(b)(ii) at an appropriate spot rate of exchange.

(3) The rate must be a rate prevailing on a day specified in the resolution authorising the purchase of the shares.

(4) Subject to subsection (1) -

(a) a limited company may only purchase its own shares out of-

(i) distributable profits of the company, or

(ii) the proceeds of a fresh issue of shares made for the purpose of financing the purchase, and

(5) This section has effect subject to section 676(4) (terms of purchase enforceable in a winding up).

Authority for purchase of own shares

632. Authority for purchase of own shares

(1) A limited company may only purchase its own shares-

(a) by an off-market purchase, authorised in accordance with section 633 or in pursuance of a contract approved in advance in accordance with section 634,

(b) by a market purchase, authorised in accordance with section 641.

(2) A purchase is "off-market" if the shares either-

(a) are purchased otherwise than on a recognised investment exchange, or

(b) are purchased on a recognised investment exchange but are not subject to a marketing arrangement on the exchange.

(3) For this purpose a company's shares are subject to a marketing arrangement on a recognised investment exchange if the company has been afforded facilities for dealings in the shares to take place on the exchange-

(i) without prior permission for individual transactions from the authority governing that investment exchange, and

(ii) without limit as to the time during which those facilities are to be available.

(4) A purchase is a "market purchase" if it is made on a recognised investment exchange and is not an off-market purchase by virtue of subsection 632(2)(b).

(5) In this section "recognised investment exchange" means an investment exchange so determined in rules made by the Board.

633. Authority for off-market purchase for the purposes of or pursuant to an employees' share scheme

(1) A company may make an off-market purchase of its own shares for the purposes of or pursuant to an employees' share scheme if the purchase has first been authorised by a resolution of the company under this section.

(2) That authority-

(a) may be general or limited to the purchase of shares of a particular class or description, and

(b) may be unconditional or subject to conditions.

(3) The authority must-

(a) specify the maximum number of shares authorised to be acquired, and

(b) determine both the maximum and minimum prices that may be paid for the shares.

(4) The authority may be varied, revoked or from time to time renewed by a resolution of the company.

(5) A resolution conferring, varying or renewing authority must specify a date on which it is to expire, which must not be later than five years after the date on which the resolution is passed.

(6) A company may make a purchase of its own shares after the expiry of the time limit specified if-

(a) the contract of purchase was concluded before the authority expired, and

(b) the terms of the authority permitted the company to make a contract of purchase that would or might be executed wholly or partly after its expiration.

(7) A resolution to confer or vary authority under this section may determine the maximum or minimum price for purchase by-

(a) specifying a particular sum, or

(b) providing a basis or formula for calculating the amount of the price (but without reference to any person's discretion or opinion).

(8) Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to a resolution under this section.

Authority for off-market purchase

634. Authority for off-market purchase

(1) Subject to section 633, a company may only make an off-market purchase of its own shares in pursuance of a contract approved prior to the purchase in accordance with this section.

(2) Either-

(a) the terms of the contract must be authorised by a resolution of the company before the contract is entered into, or

(b) the contract must provide that no shares may be purchased in pursuance of the contract until its terms have been authorised by a resolution of the company.

(3) The contract may be a contract, entered into by the company and relating to shares in the company, that does not amount to a contract to purchase the shares but under which the company may (subject to any conditions) become entitled or obliged to purchase the shares.

(4) The authority conferred by a resolution under this section may be varied, revoked or from time to time renewed by a resolution of the company.

(5) In the case of a public company a resolution conferring, varying or renewing authority must specify a date on which the authority is to expire, which must not be later than five years after the date on which the resolution is passed.

(6) A resolution conferring, varying, revoking or renewing authority under this section is subject to-

(a) section 635 (exercise of voting rights), and

(b) section 636 (disclosure of details of contract).

635. Resolution authorising off-market purchase: exercise of voting rights

(1) This section applies to a resolution to confer, vary, revoke or renew authority for the purposes of section 634 (authority for off-market purchase of own shares).

(2) Where the resolution is proposed as a written resolution, a member who holds shares to which the resolution relates is not an eligible member.

(3) Where the resolution is proposed at a meeting of the company, it is not effective if-

(a) any member of the company holding shares to which the resolution relates exercises the voting rights carried by any of those shares in voting on the resolution, and

(b) the resolution would not have been passed if he had not done so.

(4) For this purpose-

(a) a member who holds shares to which the resolution relates is regarded as exercising the voting rights carried by those shares not only if he votes in respect of them on a poll on the question whether the resolution shall be passed, but also if he votes on the resolution otherwise than on a poll,

(b) any member of the company may demand a poll on that question,

(c) a vote and a demand for a poll by a person as proxy for a member are the same respectively as a vote and a demand by the member.

636. Resolution authorising off-market purchase: disclosure of details of contract

(1) This section applies in relation to a resolution to confer, vary, revoke or renew authority for the purposes of section 634 (authority for off-market purchase of own shares).

(2) A copy of the contract (if it is in writing) or a memorandum setting out its terms (if it is not) must be made available to members-

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him,

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both-

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(3) A memorandum of contract terms so made available must include the names of the members holding shares to which the contract relates.

(4) A copy of the contract so made available must have annexed to it a written memorandum specifying such of those names as do not appear in the contract itself.

(5) The resolution is not validly passed if the requirements of this section are not complied with.

637. Variation of contract for off-market purchase

(1) A company may only agree to a variation of a contract authorised under section 634 (authority for off-market purchase) if the variation is approved in advance in accordance with this section.

(2) The terms of the variation must be authorised by a resolution of the company before it is agreed to.

(3) That authority may be varied, revoked or from time to time renewed by a resolution of the company.

(4) In the case of a public company a resolution conferring, varying or renewing authority must specify a date on which the authority is to expire, which must not be later than five years after the date on which the resolution is passed.

(5) A resolution conferring, varying, revoking or renewing authority under this section is subject to-

(a) section 638 (exercise of voting rights), and

(b) section 639 (disclosure of details of variation).

638. Resolution authorising variation: exercise of voting rights

(1) This section applies to a resolution to confer, vary, revoke or renew authority for the purposes of section 637 (variation of contract for off-market purchase of own shares).

(2) Where the resolution is proposed as a written resolution, a member who holds shares to which the resolution relates is not an eligible member.

(3) Where the resolution is proposed at a meeting of the company, it is not effective if-

(a) any member of the company holding shares to which the resolution relates exercises the voting rights carried by any of those shares in voting on the resolution, and

(b) the resolution would not have been passed if he had not done so.

(4) For this purpose-

(a) a member who holds shares to which the resolution relates is regarded as exercising the voting rights carried by those shares not only if he votes in respect of them on a poll on the question whether the resolution shall be passed, but also if he votes on the resolution otherwise than on a poll,

(b) any member of the company may demand a poll on that question,

(c) a vote and a demand for a poll by a person as proxy for a member are the same respectively as a vote and a demand by the member.

639. Resolution authorising variation: disclosure of details of variation

(1) This section applies in relation to a resolution under section 637 (variation of contract for off-market purchase of own shares).

(2) A copy of the proposed variation (if it is in writing) or a written memorandum giving details of the proposed variation (if it is not) must be made available to members-

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him,

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both-

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(3) There must also be made available as mentioned in subsection (2) a copy of the original contract or, as the case may be, a memorandum of its terms, together with any variations previously made.

(4) A memorandum of the proposed variation so made available must include the names of the members holding shares to which the variation relates.

(5) A copy of the proposed variation so made available must have annexed to it a written memorandum specifying such of those names as do not appear in the variation itself.

(6) The resolution is not validly passed if the requirements of this section are not complied with.

640. Release of company's rights under contract for off-market purchase

(1) An agreement by a company to release its rights under a contract approved under section 634 (authority for off-market purchase) is void unless the terms of the release agreement are approved in advance in accordance with this section.

(2) The terms of the proposed agreement must be authorised by a resolution of the company before the agreement is entered into.

(3) That authority may be varied, revoked or from time to time renewed by a resolution of the company.

(4) In the case of a public company a resolution conferring, varying or renewing authority must specify a date on which the authority is to expire, which must not be later than five years after the date on which the resolution is passed.

(5) The provisions of-

(a) section 638 (exercise of voting rights), and

(b) section 639 (disclosure of details of variation),

apply to a resolution authorising a proposed release agreement as they apply to a resolution authorising a proposed variation.

Authority for market purchase

641. Authority for market purchase

(1) A company may only make a market purchase of its own shares if the purchase has first been authorised by a resolution of the company.

(2) That authority-

(a) may be general or limited to the purchase of shares of a particular class or description, and

(b) may be unconditional or subject to conditions.

(3) The authority must-

(a) specify the maximum number of shares authorised to be acquired, and

(b) determine both the maximum and minimum prices that may be paid for the shares.

(4) The authority may be varied, revoked or from time to time renewed by a resolution of the company.

(5) A resolution conferring, varying or renewing authority must specify a date on which it is to expire, which must not be later than five years after the date on which the resolution is passed.

(6) A company may make a purchase of its own shares after the expiry of the time limit specified if-

(a) the contract of purchase was concluded before the authority expired, and

(b) the terms of the authority permitted the company to make a contract of purchase that would or might be executed wholly or partly after its expiration.

(7) A resolution to confer or vary authority under this section may determine either or both the maximum and minimum price for purchase by-

(a) specifying a particular sum, or

(b) providing a basis or formula for calculating the amount of the price (but without reference to any person's discretion or opinion).

(8) Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to a resolution under this section.

642. Copy of contract or memorandum to be available for inspection

(1) This section applies where a company has entered into-

(a) a contract approved under section 634 (authority for contract for offmarket purchase), or

(b) a contract for a purchase authorised under section 641 (authorisation of market purchase).

(2) The company must keep available for inspection-

(a) a copy of the contract, or

(b) if the contract is not in writing, a written memorandum setting out its terms.

(3) The copy or memorandum must be kept available for inspection from the conclusion of the contract until the end of the period of ten years beginning with-

(a) the date on which the purchase of all the shares in pursuance of the contract is completed, or

(b) the date on which the contract otherwise determines.

(4) The copy or memorandum must be kept available for inspection-

(a) at the company's registered office, or

(b) at a place specified in rules made by the Board under section 996 (rules about where certain company records to be kept available for inspection).

(5) The company must give notice to the Registrar-

(a) of the place at which the copy or memorandum is kept available for inspection, and

(b) of any change in that place,

unless it has at all times been kept at the company's registered office, or unless it is a restricted scope company.

(6) Every copy or memorandum required to be kept under this section must be kept open to inspection without charge-

(a) by any member of the company, and

(b) in the case of a public company, by any other person.

(7) The provisions of this section apply to a variation of a contract as they apply to the original contract.

643. Enforcement of right to inspect copy or memorandum

(1) If default is made in complying with section 642(2), (3) or (4) or default is made for 14 days in complying with section 642(5), or an inspection required under section 642(6) is refused, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(2) A person who commits a contravention under this section is liable to a level 2 fine.

(3) In the case of refusal of an inspection required under section 642(6) the Court may by order compel an immediate inspection.

644. No assignment of company's right to purchase own shares

The rights of a company under a contract authorised under-

(a) section 633 (authority for off-market purchase for the purposes of or pursuant to an employees' share scheme),

(b) section 634 (authority for off-market purchase), or

(c) section 641 (authority for market purchase)

are not capable of being assigned.

645. Payments apart from purchase price to be made out of distributable profits

(1) A payment made by a company in consideration of-

(a) acquiring any right with respect to the purchase of its own shares in pursuance of a contingent purchase contract approved under section 634 (authority for off-market purchase),

(b) the variation of any contract approved under that section, or

(c) the release of any of the company's obligations with respect to the purchase of any of its own shares under a contract-

(i) approved under section 634 (authority for off-market purchase), or

(ii) authorised under section 641 (authority for market purchase),

must be made out of the company's distributable profits.

(2) If this requirement is not met in relation to a contract, then-

(a) in a case within subsection 645(1)(a), no purchase by the company of its own shares in pursuance of that contract may be made under this Chapter,

(b) in a case within subsection 645(1)(b), no such purchase following the variation may be made under this Chapter,

(c) in a case within subsection 645(1)(c), the purported release is void.

646. Treatment of shares purchased

Where a limited company makes a purchase of its own shares in accordance with this Chapter, then-

(a) if section 666(treasury shares) applies, the shares may be held and dealt with in accordance with Chapter 6,

(b) if that section does not apply-

(i) the shares are treated as cancelled, and

(ii) the amount of the company's issued share capital is diminished accordingly by the issue price of the shares cancelled.

647. Return to Registrar of purchase of own shares

(1) Where a company purchases shares under this Chapter, it must deliver a return to the Registrar within the period of one month beginning with the date on which the shares are delivered to it, but not if it is a restricted scope company in which case this section shall not apply.

(2) The return must distinguish-

(a) shares in relation to which section 666 (treasury shares) applies and shares in relation to which that section does not apply, and

(b) shares in relation to which that section applies-

(i) that are cancelled forthwith (under section 670 (cancellation of treasury shares)), and

(ii) that are not so cancelled.

(3) The return must state, with respect to shares of each class purchased-

(a) the number and aggregate price of the shares purchased, and

(b) the date on which they were delivered to the company.

(4) In the case of a public company the return must also state-

(a) the aggregate amount paid by the company for the shares, and

(b) the maximum and minimum prices paid in respect of shares of each class purchased.

(5) Particulars of shares delivered to the company on different dates and under different contracts may be included in a single return.

In such a case the amount required to be stated under subsection 647(4)(a) is the aggregate amount paid by the company for all the shares to which the return relates.

(6) If default is made in complying with this section a contravention of these Regulations is committed by every officer of the company who is in default.

(7) A person who commits a contravention under this section is liable to a level 1 fine.

648. Notice to Registrar of cancellation of shares

(1) If on the purchase by a company of any of its own shares in accordance with this Part-

(a) section 666 (treasury shares) does not apply (so that the shares are treated as cancelled), or

(b) that section applies but the shares are cancelled forthwith (under section 670 (cancellation of treasury shares)),

the company must give notice of cancellation to the Registrar within the period of one month beginning with the date on which the shares are delivered to it specifying the shares cancelled

(2) The notice must be accompanied by a statement of capital.

(3) The statement of capital must state with respect to the company's share capital immediately following the cancellation-

(a) the total number of shares of the company,

(b) the aggregate issue price of those shares,

(c) for each class of shares-

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate issue price of shares of that class, and

(d) the amount paid up and the amount (if any) unpaid on each share.

(4) If default is made in complying with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits a contravention of this section is liable to a level 1 fine.

(6) This section does not apply to restricted scope companies.

Chapter 5

REDEMPTION OR PURCHASE BY PRIVATE COMPANY OUT OF CAPITAL

Introductory

649. Power of private limited company to redeem or purchase own shares out of capital

(1) A private limited company may in accordance with this Chapter, but subject to any restriction or prohibition in the company's articles, make a payment in respect of the redemption or purchase of its own shares otherwise than out of distributable profits or the proceeds of a fresh issue of shares.

(2) References below in this Chapter to payment out of capital are to any payment so made, whether or not it would be regarded apart from this section as a payment out of capital.

Permissible capital payments

650. The permissible capital payment

(1) The payment that may, in accordance with this Chapter, be made by a company out of capital in respect of the redemption or purchase of its own shares is such amount as, after applying for that purpose-

(a) any available profits of the company, and

(b) the proceeds of any fresh issue of shares made for the purposes of the redemption or purchase,

is required to meet the price of redemption or purchase.

(2) That is referred to below in this Chapter as "the permissible capital payment" for the shares.

651. Available profits

(1) For the purposes of this Chapter the available profits of the company, in relation to the redemption or purchase of any shares, are the profits of the company that are available for distribution (within the meaning of Part 22 (distributions)).

(2) But the question whether a company has any profits so available, and the amount of any such profits, shall be determined in accordance with section 652 instead of in accordance with sections 763 (justification of distribution by reference to relevant accounts) to 769 (determination of profit or loss in respect of asset where records incomplete) in that Part.

652. Determination of available profits

(1) The available profits of the company are determined as follows.

(2) First, determine the profits of the company by reference to the following items as stated in the relevant accounts-

(a) profits, losses, assets and liabilities,

(b) any provisions made in the company's accounts,

(c) share capital and reserves (including undistributable reserves).

(3) Second, reduce the amount so determined by the amount of-

(a) any distribution lawfully made by the company, and

(b) any other relevant payment lawfully made by the company out of distributable profits,

after the date of the relevant accounts and before the end of the relevant period.

(4) For this purpose "other relevant payment lawfully made" includes-

(a) financial assistance lawfully given out of distributable profits in accordance with Chapter 2,

(b) payments lawfully made out of distributable profits in respect of the purchase by the company of any shares in the company, and

(c) payments of any description specified in section 645 (payments apart from purchase price to be made out of distributable profits) lawfully made by the company.

(5) The resulting figure is the amount of available profits.

(6) For the purposes of this section "the relevant accounts" are any accounts that-

(a) are prepared as at a date within the relevant period, and

(b) are such as to enable a reasonable judgment to be made as to the amounts of the items mentioned in subsection (2).

(7) In this section "the relevant period" means the period of three months ending with the date on which the solvency statement is made in accordance with section 661 or the directors' statement is made in accordance with section 654.

Requirements for payments out of capital

653. Requirements for payment out of capital

(1) A payment out of capital by a private company for the redemption or purchase of its own shares is not lawful unless the requirements of the following sections are met-

(a) section 654 (directors' statement),

(b) section 656 (approval by special resolution),

(c) section 659 (public notice of proposed payment), and

(d) section 660 (directors' statement to be available for inspection).

(2) This is subject to section 661 (reduced requirements for payment out of capital for purchase of own shares for the purposes of or pursuant to an employees' share scheme)

and to any order of the Court under section 663 (power of Court to extend period for compliance on application by persons objecting to payment).

654. Directors' statement

(1) The company's directors must make a statement in accordance with this section.

(2) The statement must specify the amount of the permissible capital payment for the shares in question.

(3) It must state that, having made full inquiry into the affairs and prospects of the company, the directors have formed the opinion-

(a) as regards its initial situation immediately following the date on which the payment out of capital is proposed to be made, that there will be no grounds on which the company could then be found unable to pay its debts, and

(b) as regards its prospects for the year immediately following that date, that having regard to-

(i) their intentions with respect to the management of the company's business during that year, and

(ii) the amount and character of the financial resources that will in their view be available to the company during that year,

the company will be able to continue to carry on business as a going concern (and will accordingly be able to pay its debts as they fall due) throughout that year.

(4) In forming their opinion for the purposes of subsection 654(3)(a), the directors must take into account all of the company's liabilities (including any contingent or prospective liabilities).

(5) The directors' statement must be in the prescribed form and must contain such information with respect to the nature of the company's business as may be prescribed.

655. Directors' statement: offence if no reasonable grounds for opinion

(1) If the directors make a statement under section 654 without having reasonable grounds for the opinion expressed in it, a contravention of these Regulations is committed by every director who is in default.

(2) A person who commits a contravention of this section is liable to a fine of up to level 8.

656. Payment to be approved by special resolution

(1) The payment out of capital must be approved by a special resolution of the company.

(2) The resolution must be passed on, or within the week immediately following, the date on which the directors make the statement required by section 654.

(3) A resolution under this section is subject to-

(a) section 657 (exercise of voting rights), and

(b) section 658 (disclosure of directors' statement).

657. Resolution authorising payment: exercise of voting rights

(1) This section applies to a resolution under section 656 (authority for payment out of capital for redemption or purchase of own shares).

(2) Where the resolution is proposed as a written resolution, a member who holds shares to which the resolution relates is not an eligible member.

(3) Where the resolution is proposed at a meeting of the company, it is not effective if-

(a) any member of the company holding shares to which the resolution relates exercises the voting rights carried by any of those shares in voting on the resolution, and

(b) the resolution would not have been passed if he had not done so.

(4) For this purpose-

(a) a member who holds shares to which the resolution relates is regarded as exercising the voting rights carried by those shares not only if he votes in respect of them on a poll on the question whether the resolution shall be passed, but also if he votes on the resolution otherwise than on a poll,

(b) any member of the company may demand a poll on that question,

(c) a vote and a demand for a poll by a person as proxy for a member are the same respectively as a vote and a demand by the member.

658. Resolution authorising payment: disclosure of directors' statement

(1) This section applies to a resolution under section 656 (authority for payment out of capital for redemption or purchase of own shares).

(2) A copy of the directors' statement under section 654 must be made available to members-

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him,

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company at the meeting.

(3) The resolution is ineffective if this requirement is not complied with.

659. Notice of proposed payment

(1) Within the week immediately following the date of the resolution under section 656 the company must-

(a) (in the case of a company other than a restricted scope company) publish in a leading English language newspaper of the United Arab Emirates, or

(b) (in the case of a restricted scope company) send to each of its members,

a notice-

(i) stating that the company has approved a payment out of capital for the purpose of acquiring its own shares by redemption or purchase or both (as the case may be),

(ii) specifying-

the amount of the permissible capital payment for the shares in question, and

the date of the resolution,

(iii) stating where the directors' statement required by section 654 are available for inspection, and

(2) Not later than the day on which the company-

(a) first makes available the notice required by subsection (1), or

(b) if earlier, first publishes or gives the notice required by subsection (1),

the company must deliver to the Registrar a copy of the directors' statement required by section 654.

This subsection (2) does not apply to restricted scope companies.

660. Directors' statement to be available for inspection

(1) The directors' statement must be kept available for inspection throughout the period-

(a) beginning with the day on which the company

(i) first publishes the notice required by section 659(1)(a), or

(ii) (in the case of a restricted scope company) sends the notice contemplated by 659(1)(b), and

(b) ending five weeks after the date of the resolution for payment out of capital.

(2) The statement must be kept available for inspection-

(a) at the company's registered office, or

(b) at a place specified in rules made by the Board under section 996 (rules about where certain company records to be kept available for inspection).

(3) The company must give notice to the Registrar-

(a) of the place at which the statement is kept available for inspection, and

(b) of any change in that place,

unless it has at all times been kept at the company's registered office.

(4) The statement must be open to the inspection of any member or creditor of the company without charge.

(5) If default is made for 14 days in complying with subsection (3), or an inspection under subsection (4) is refused, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(6) A person who commits a contravention of this section is liable to a level 7 fine.

(7) In the case of a refusal of an inspection required by subsection (4), the Court may by order compel an immediate inspection.

661. Reduced requirements for payment out of capital for purchase of own shares for the purposes of or pursuant to an employees' share scheme

(1) Section 653(1) does not apply to the purchase out of capital by a private company of its own shares for the purposes of or pursuant to an employees' share scheme when approved by special resolution supported by a solvency statement.

(2) For the purposes of this section a resolution is supported by a solvency statement if-

(a) the directors of the company make a solvency statement (see section 584) not more than 15 days before the date on which the resolution is passed, and

(b) the resolution and solvency statement are registered in accordance with section 662.

(3) Where the resolution is proposed as a written resolution, a copy of the solvency statement must be sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to the member.

(4) Where the resolution is proposed at a general meeting, a copy of the solvency statement must be made available for inspection by members of the company throughout that meeting.

(5) The validity of a resolution is not affected by a failure to comply with subsection (3) or (4).

(6) Section 657 (resolution authorising payment: exercise of voting rights) applies to a resolution under this section as it applies to a resolution under section 656.

662. Registration of resolution and supporting documents for purchase of own shares for the purposes of or pursuant to an employees' share scheme

(1) Within 14 days after the passing of the resolution for a payment out of capital by a private company for the purchase of its own shares for the purposes of or pursuant to an employees' share scheme the company must deliver to the Registrar-

(a) a copy of the solvency statement,

(b) a copy of the resolution, and

(c) a statement of capital.

(2) The statement of capital must state with respect to the company's share capital as reduced by the resolution-

(a) the total number of shares of the company,

(b) the aggregate issue price of those shares,

(c) for each class of shares-

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate issue price of shares of that class, and

(d) the amount paid up and the amount (if any) unpaid on each share.

(3) The Registrar must register the documents delivered to him under subsection (1) on receipt.

(4) The resolution does not take effect until those documents are registered.

(5) The company must also deliver to the Registrar, within 14 days after the resolution is passed, a statement by the directors confirming that the solvency statement was-

(a) made not more than 15 days before the date on which the resolution was passed, and

(b) provided to members in accordance with section 661(3) or (4).

(6) The validity of a resolution is not affected by-

(a) a failure to deliver the documents required to be delivered to the Registrar under subsection (1) within the time specified in that subsection, or

(b) a failure to comply with subsection (5).

(7) If the company delivers to the Registrar a solvency statement that was not provided to members in accordance with section 661(3) or (4), a contravention of these Regulations is committed by every officer of the company who is in default.

(8) If default is made in complying with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(9) A person who commits a contravention of subsection (7) or (8) is liable to a fine of up to level 8.

(10) This section does not apply to a restricted scope company.

663. Application to Court to cancel resolution

(1) Where a private company passes a special resolution approving a payment out of capital for the redemption or purchase of any of its shares-

(a) any member of the company (other than one who consented to or voted in favour of the resolution), and

(b) any creditor of the company,

may apply to the Court for the cancellation of the resolution.

(2) The application-

(a) must be made within five weeks after the passing of the resolution, and

(b) may be made on behalf of the persons entitled to make it by such one or more of their number as they may appoint in writing for the purpose.

(3) On an application under this section the Court may if it thinks fit-

(a) adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court-

(i) for the purchase of the interests of dissentient members, or

(ii) for the protection of dissentient creditors, and

(b) give such directions and make such orders as it thinks expedient for facilitating or carrying into effect any such arrangement.

(4) Subject to that, the Court must make an order either cancelling or confirming the resolution, and may do so on such terms and conditions as it thinks fit.

(5) If the Court confirms the resolution, it may by order alter or extend any date or period of time specified-

(a) in the resolution, or

(b) in any provision of this Chapter applying to the redemption or purchase to which the resolution relates.

(6) The Court's order may, if the Court thinks fit-

(a) provide for the purchase by the company of the shares of any of its members and for the reduction accordingly of the company's capital, and

(b) make any alteration in the company's articles that may be required in consequence of that provision.

(7) The Court's order may, if the Court thinks fit, require the company not to make any, or any specified, amendments of its articles without the leave of the Court.

664. Notice to Registrar of Court application or order

(1) On making an application under section 663 (application to Court to cancel resolution) the applicants, or the person making the application on their behalf, must immediately give notice to the Registrar.

This is without prejudice to any provision of rules of Court as to service of notice of the application.

(2) On being served with notice of any such application, the company must immediately give notice to the Registrar.

(3) Within 15 days of the making of the Court's order on the application, or such longer period as the Court may at any time direct, the company must deliver to the Registrar a copy of the order.

(4) If a company fails to comply with subsection (2) or (3) a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits a contravention of subsection (2) or (3) is liable to a level 2 fine.

(6) This section does not apply to a restricted scope company.

665. When payment out of capital to be made

(1) The payment out of capital, if made in accordance with a resolution under section 656 must be made no more than six weeks after the date of such resolution.

(2) The payment out of capital, if made in accordance with a resolution under section 661 must be made no more than six weeks after the date of such resolution.

Chapter 6

TREASURY SHARES

666. Treasury shares

(1) This section applies where-

(a) a limited company makes a purchase of its own shares in accordance with Chapter 4, and

(b) the purchase is made-

(i) out of distributable profits, or

(ii) with cash under section 631(1)(b).

(2) Where this section applies the company may-

(a) hold the shares (or any of them), or

(b) deal with any of them, at any time, in accordance with section 668 or 670.

(3) Where shares are held by the company, the company must be entered in its register of members as the member holding the shares.

(4) In these Regulations references to a company holding shares as treasury shares are to the company holding shares that-

(a) were (or are treated as having been) purchased by it in circumstances in which this section applies, and

(b) have been held by the company continuously since they were so purchased (or treated as purchased).

667. Treasury shares: exercise of rights

(1) This section applies where shares are held by a company as treasury shares.

(2) The company must not exercise any right in respect of the treasury shares, and any purported exercise of such a right is void.

This applies, in particular, to any right to attend or vote at meetings.

(3) No dividend may be paid, and no other distribution (whether in cash or otherwise) of the company's assets (including any distribution of assets to members on a winding up) may be made to the company, in respect of the treasury shares.

(4) Nothing in this section prevents-

(a) an allotment of shares as fully paid bonus shares in respect of the treasury shares, or

(b) the payment of any amount payable on the redemption of the treasury shares (if they are redeemable shares).

(5) Shares allotted as fully paid bonus shares in respect of the treasury shares are treated as if purchased by the company, at the time they were allotted, in circumstances in which section 666(1) (treasury shares) applied.

668. Treasury shares: disposal

(1) Where shares are held as treasury shares, the company may at any time-

(a) sell the shares (or any of them) for a cash consideration, or

(b) transfer the shares (or any of them) for the purposes of or pursuant to an employees' share scheme.

(2) In subsection 668(1)(a) "cash consideration" means-

(a) cash received by the company, or

(b) a cheque received by the company in good faith that the directors have no reason for suspecting will not be paid, or

(c) a release of a liability of the company for a liquidated sum, or

(d) an undertaking to pay cash to the company on or before a date not more than 90 days after the date on which the company agrees to sell the shares, or

(e) payment by any other means giving rise to a present or future entitlement (of the company or a person acting on the company's behalf) to a payment, or credit equivalent to payment, in cash.

For this purpose "cash" includes currency other than US dollars or the currency in which the shares are denominated.

(3) The Board may make rules which provide that particular means of payment specified in the rules are to be regarded as falling within subsection 668(2)(e).

669. Treasury shares: notice of disposal

(1) Where shares held by a company as treasury shares-

(a) are sold, or

(b) are transferred for the purposes of an employees' share scheme,

the company must deliver a return to-

(i) (in the case of a company other than a restricted scope company) the Registrar, or

(ii) (in the case of a restricted scope company) each of its members,

not later than one month after the shares are disposed of.

(2) The return must state with respect to shares of each class disposed of-

(a) the number and value of the shares, and

(b) the date on which they were disposed of.

(3) Particulars of shares disposed of on different dates may be included in a single return.

(4) If default is made in complying with this section a contravention of these Regulations is committed by every officer of the company who is in default.

(5) A person who commits a contravention of this section is liable to a level 2 fine.

670. Treasury shares: cancellation

(1) Where shares are held as treasury shares, the company may at any time cancel the shares (or any of them).

(2) If a company cancels shares held as treasury shares, the amount of the company's share capital is reduced accordingly.

(3) The directors may take any steps required to enable the company to cancel its shares under this section without complying with the provisions of Chapter 10 of Part 16 (reduction of share capital).

671. Treasury shares: notice of cancellation

(1) Where shares held by a company as treasury shares are cancelled, the company must deliver a return to-

(a) (in the case of a company other than a restricted scope company) the Registrar, or

(b) (in the case of a restricted scope company) each of its members,

not later than one month after the shares are cancelled.

This does not apply to shares that are cancelled forthwith on their acquisition by the company (see section 648).

(2) The return must state with respect to shares of each class cancelled-

(a) the number and issue price of the shares, and

(b) the date on which they were cancelled.

(3) Particulars of shares cancelled on different dates may be included in a single return.

(4) The notice must be accompanied by a statement of capital.

(5) The statement of capital must state with respect to the company's share capital immediately following the cancellation-

(a) the total number of shares of the company,

(b) the aggregate issue price of those shares,

(c) for each class of shares-

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate issue price of shares of that class, and

(d) the amount paid up and the amount (if any) unpaid on each share.

(6) If default is made in complying with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(7) A person who commits a contravention of this section is liable to a level 2 fine.

(8) This section does not apply to restricted scope companies.

672. Treasury shares: treatment of proceeds of sale

(1) Where shares held as treasury shares are sold, the proceeds of sale must be dealt with in accordance with this section.

(2) If the proceeds of sale are equal to or less than the purchase price paid by the company for the shares, the proceeds are treated for the purposes of Part 22 (distributions) as a realised profit of the company.

(3) If the proceeds of sale exceed the purchase price paid by the company an amount equal to the purchase price paid is treated as a realised profit of the company for the purposes of that Part, and

(4) For the purposes of this section-

(a) the purchase price paid by the company must be determined by the application of a weighted average price method, and

(b) if the shares were allotted to the company as fully paid bonus shares, the purchase price paid for them is treated as nil.

673. Treasury shares: offences

(1) If a company contravenes any of the provisions of this Chapter (except section 671 (notice of cancellation)), a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(2) A person who commits a contravention of this Chapter (except section 671 (notice of cancellation)) is liable to a level 2 fine.

Chapter 7

SUPPLEMENTARY PROVISIONS

674. The capital redemption reserve

(1) In the following circumstances a company must transfer amounts to a reserve, called the "capital redemption reserve".

(2) Where under this Part shares of a limited company are redeemed or purchased wholly out of the company's profits, the amount by which the company's issued share capital is diminished in accordance with-

(a) section 627(b) (on the cancellation of shares redeemed), or

(b) section 646(b)(ii) (on the cancellation of shares purchased),

must be transferred to the capital redemption reserve.

(3) The amount by which a company's share capital is diminished in accordance with section 670(2) (on the cancellation of shares held as treasury shares) must be transferred to the capital redemption reserve.

(4) The company may use the capital redemption reserve to pay up new shares to be allotted to members as fully paid bonus shares.

(5) Subject to that, the provisions of these Regulations relating to the reduction of a company's share capital apply as if the capital redemption reserve were part of its paid up share capital.

675. Accounting consequences of payment out of capital

(1) This section applies where a payment out of capital is made in accordance with Chapter 5 (redemption or purchase of own shares by private company out of capital).

(2) If the permissible capital payment is less than the stated capital of the shares redeemed or purchased, the amount of the difference must be transferred to the company's capital redemption reserve.

(3) If the permissible capital payment is greater than the stated capital of the shares redeemed or purchased-

(a) the amount of any capital redemption reserve or fully paid share capital of the company, and

(b) any amount representing unrealised profits of the company for the time being standing to the credit of any revaluation reserve maintained by the company,

may be reduced by a sum not exceeding (or by sums not in total exceeding) the amount by which the permissible capital payment exceeds the stated capital of the shares.

(4) Where the proceeds of a fresh issue are applied by the company in making a redemption or purchase of its own shares in addition to a payment out of capital under this Chapter, the references in subsections (2) and (3) to the permissible capital payment are to be read as referring to the aggregate of that payment and those proceeds.

676. Effect of company's failure to redeem or purchase

(1) This section applies where a company-

(a) issues shares on terms that they are or are liable to be redeemed, or

(b) agrees to purchase any of its shares.

(2) The company is not liable in damages in respect of any failure on its part to redeem or purchase any of the shares.

This is without prejudice to any right of the holder of the shares other than his right to sue the company for damages in respect of its failure.

(3) The Court shall not grant an order for specific performance of the terms of redemption or purchase if the company shows that it is unable to meet the costs of redeeming or purchasing the shares in question out of distributable profits.

(4) If the company is wound up and at the commencement of the winding up any of the shares have not been redeemed or purchased, the terms of redemption or purchase may be enforced against the company.

When shares are redeemed or purchased under this subsection, they are treated as cancelled.

(5) Subsection (4) does not apply if-

(a) the terms provided for the redemption or purchase to take place at a date later than that of the commencement of the winding up, or

(b) during the period-

(i) beginning with the date on which the redemption or purchase was to have taken place, and

(ii) ending with the commencement of the winding up,

the company could not at any time have lawfully made a distribution equal in value to the price at which the shares were to have been redeemed or purchased.

(6) There shall be paid in priority to any amount that the company is liable under subsection (4) to pay in respect of any shares-

(a) all other debts and liabilities of the company (other than any due to members in their character as such), and

(b) if other shares carry rights (whether as to capital or as to income) that are preferred to the rights as to capital attaching to the first-mentioned shares, any amount due in satisfaction of those preferred rights.

Subject to that, any such amount shall be paid in priority to any amounts due to members in satisfaction of their rights (whether as to capital or income) as members.

677. Meaning of "distributable profits"

In this Part (except in Chapter 2 (financial assistance): see section 622) "distributable profits", in relation to the making of any payment by a company, means profits out of which the company could lawfully make a distribution (within the meaning given by section 761 (distributions to be made only out of profits available for the purpose) equal in value to the payment.

Part 18

DEBENTURES

General provisions

678. Meaning of "debenture"

In these Regulations "debenture" includes debenture stock, loan stock, bonds and any other securities of a company, whether or not constituting a charge on the assets of the company.

679. Perpetual debentures

(1) A condition contained in debentures, or in a deed for securing debentures, is not invalid by reason only that the debentures are made-

(a) irredeemable, or

(b) redeemable only-

(i) on the happening of a contingency (however remote), or

(ii) on the expiration of a period (however long),

any rule of equity to the contrary notwithstanding.

(2) Subsection (1) applies to debentures whenever issued and to deeds whenever executed.

680. Enforcement of contract to subscribe for debentures

A contract with a company to take up and pay for debentures of the company may be enforced by an order for specific performance.

681. Registration of allotment of debentures

(1) A company must register an allotment of debentures as soon as practicable and in any event within two months after the date of the allotment.

(2) If a company fails to comply with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who commits a contravention of this section is liable to a level 2 fine.

(4) For the duties of the company as to the issue of the debentures, or certificates of debenture stock, see Part 20 (certification and transfer of securities)

682. Register of debenture holders

(1) Any register of debenture holders of a company that is kept by the company must be kept available for inspection-

(a) at the company's registered office, or

(b) at a place specified in rules made by the Board under section 996 (rules about where certain company records to be kept available for inspection).

(2) A company must give notice to the Registrar of the place where any such register is kept available for inspection and of any change in that place.

(3) No such notice is required if the register has, at all times since it came into existence, been kept available for inspection at the company's registered office.

(4) If a company makes default for 14 days in complying with subsection (2), a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits a contravention of this section is liable to a level 3 fine.

(6) References in this section to a register of debenture holders include a duplicate-

(a) of a register of debenture holders that is kept outside the Abu Dhabi Global Market, or

(b) of any part of such a register.

683. Register of debenture holders: right to inspect and require copy

(1) Every register of debenture holders of a company must, except when duly closed, be open to the inspection-

(a) of the registered holder of any such debentures, or any holder of shares in the company, without charge, and

(b) of any other person on payment of such fee as may be prescribed.

(2) Any person may require a copy of the register, or any part of it, on payment of such fee as may be prescribed.

(3) A person seeking to exercise either of the rights conferred by this section must make a request to the company to that effect.

(4) The request must contain the following information-

(a) in the case of an individual, his name and address,

(b) in the case of an organisation, the name and address of an individual responsible for making the request on behalf of the organisation,

(c) the purpose for which the information is to be used, and

(d) whether the information will be disclosed to any other person, and if so-

(i) where that person is an individual, his name and address,

(ii) where that person is an organisation, the name and address of an individual responsible for receiving the information on its behalf, and

(iii) the purpose for which the information is to be used by that person.

(5) For the purposes of this section a register is "duly closed" if it is closed in accordance with provision contained-

(a) in the articles or in the debentures,

(b) in the case of debenture stock in the stock certificates, or

(c) in the trust deed or other document securing the debentures or debenture stock.

The total period for which a register is closed in any year must not exceed 30 days.

(6) References in this section to a register of debenture holders include a duplicate-

(a) of a register of debenture holders that is kept outside the Abu Dhabi Global Market, or

(b) of any part of such a register.

(7) Subsection (1)(b) does not apply to a restricted scope company.

684. Register of debenture holders: response to request for inspection or copy

(1) Where a company receives a request under section 683 (register of debenture holders: right to inspect and require copy), it must within five working days either-

(a) comply with the request, or

(b) apply to the Court.

(2) If it applies to the Court it must notify the person making the request.

(3) If on an application under this section the Court is satisfied that the inspection or copy is not sought for a proper purpose-

(a) it shall direct the company not to comply with the request, and

(b) it may further order that the company's costs on the application be paid in whole or in part by the person who made the request, even if he is not a party to the

(4) If the Court makes such a direction and it appears to the Court that the company is or may be subject to other requests made for a similar purpose (whether made by the same person or different persons), it may direct that the company is not to comply with any such request.

The order must contain such provision as appears to the Court appropriate to identify the requests to which it applies.

(5) If on an application under this section the Court does not direct the company not to comply with the request, the company must comply with the request immediately upon the Court giving its decision or, as the case may be, the proceedings being discontinued.

685. Register of debenture holders: refusal of inspection or default in providing copy

(1) If an inspection required under section 683 (register of debenture holders: right to inspect and require copy) is refused or default is made in providing a copy required

under that section, otherwise than in accordance with an order of the Court, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(2) A person who commits a contravention of this section is liable to a level 2 fine.

(3) In the case of any such refusal or default the Court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requesting it.

686. Register of debenture holders: offences in connection with request for or disclosure of information

(1) It is a contravention of these Regulations for a person knowingly or recklessly to make in a request under section 683 (register of debenture holders: right to inspect and require copy) a statement that is misleading, false or deceptive in a material particular.

(2) It is a contravention of these Regulations for a person in possession of information obtained by exercise of either of the rights conferred by that section-

(a) to do anything that results in the information being disclosed to another person, or

(b) to fail to do anything with the result that the information is disclosed to another person,

knowing, or having reason to suspect, that person may use the information for a purpose that is not a proper purpose.

(3) A person who commits a contravention of this section is liable to a level 2 fine.

687. Time limit for claims arising from entry in register

(1) Liability incurred by a company-

(a) from the making or deletion of an entry in the register of debenture holders, or

(b) from a failure to make or delete any such entry,

is not enforceable more than ten years after the date on which the entry was made or deleted or, as the case may be, the failure first occurred.

(2) This is without prejudice to any lesser period of limitation.

Supplementary provisions

688. Right of debenture holder to copy of deed

(1) Any holder of debentures of a company is entitled, on request and on payment of such fee as may be prescribed, to be provided with a copy of any trust deed for securing the debentures.

(2) If default is made in complying with this section, a contravention of these Regulations is committed by every officer of the company who is in default.

(3) A person who commits a contravention of this section is liable to a level 2 fine.

(4) In the case of any such default the Court may direct that the copy required be sent to the person requiring it.

689. Liability of trustees of debentures

(1) Any provision contained in-

(a) a trust deed for securing an issue of debentures, or

(b) any contract with the holders of debentures secured by a trust deed,

is void in so far as it would have the effect of exempting a trustee of the deed from, or indemnifying him against, liability for breach of trust where he fails to show the degree of care and diligence required of him as trustee, having regard to the provisions of the trust deed conferring on him any powers, authorities or discretions.

(2) Subsection (1) does not invalidate-

(a) a release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release,

(b) any provision enabling such a release to be given-

(i) on being agreed to by a majority of not less than 75% in value of the debenture holders present and voting in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose, and

(ii) either with respect to specific acts or omissions or on the trustee dying or ceasing to act.

690. Power to re-issue redeemed debentures

(1) Where a company has redeemed debentures previously issued, then unless-

(a) provision to the contrary (express or implied) is contained in the company's articles or in any contract made by the company, or

(b) the company has, by passing a resolution to that effect or by some other act, manifested its intention that the debentures shall be cancelled,

the company may re-issue the debentures, either by re-issuing the same debentures or by issuing new debentures in their place.

This subsection is deemed always to have had effect.

(2) On a re-issue of redeemed debentures the person entitled to the debentures has (and is deemed always to have had) the same priorities as if the debentures had never been redeemed.

(3) The re-issue of a debenture or the issue of another debenture in its place under this section is treated as the issue of a new debenture for the purposes of stamp duty.

It is not so treated for the purposes of any provision limiting the amount or number of debentures to be issued.

(4) A person lending money on the security of a debenture re-issued under this section which appears to be duly stamped may give the debenture in evidence in any

proceedings for enforcing his security without payment of the stamp duty or any penalty in respect of it, unless he had notice (or, but for his negligence, might have discovered) that the debenture was not duly stamped.

In that case the company is liable to pay the proper stamp duty and penalty.

691. Deposit of debentures to secure advances

Where a company has deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures are not treated as redeemed by reason only of the company's account having eased to be in debit while the debentures remained so deposited.

692. Priorities where debentures secured by floating charge

(1) This section applies where debentures of a company registered in the Abu Dhabi Global Market are secured by a charge that, as created, was a floating charge.

(2) If possession is taken, by or on behalf of the holders of the debentures, of any property comprised in or subject to the charge, and the company is not at that time in the course of being wound up, the company's preferential debts shall be paid out of assets coming to the hands of the persons taking possession in priority to any claims for principal or interest in respect of the debentures.

(3) "Preferential debts" means the categories of debts described in section 227 (preferential debts) of the Insolvency Regulations 2015.

(4) Payments under this section shall be recouped, as far as may be, out of the assets of the company available for payment of general creditors.

Part 19

PRIVATE AND PUBLIC COMPANIES

Chapter 1

PROHIBITION OF PUBLIC OFFERS BY PRIVATE COMPANIES

693. Prohibition of public offers by private company

(1) A private company must not-

(a) offer to the public any securities of the company, or

(b) allot or agree to allot any securities of the company with a view to their being offered to the public.

(2) Unless the contrary is proved, an allotment or agreement to allot securities is presumed to be made with a view to their being offered to the public if an offer of the securities (or any of them) to the public is made-

(a) within six months after the allotment or agreement to allot, or

(b) before the receipt by the company of the whole of the consideration to be received by it in respect of the securities.

(3) A company does not contravene this section if-

(a) it acts in good faith in pursuance of arrangements under which it is to re-register as a public company before the securities are allotted, or

(b) as part of the terms of the offer it undertakes to re-register as a public company within a specified period, and that undertaking is complied with.

(4) The specified period for the purposes of subsection 693(3)(b) must be a period ending not later than six months after the day on which the offer is made (or, in the case of an offer made on different days, first made).

(5) In this Chapter "securities" means shares or debentures.

694. Meaning of "offer to the public"

(1) This section explains what is meant in this Chapter by an offer of securities to the public.

(2) An offer to the public includes an offer to any section of the public, however selected.

(3) An offer is not regarded as an offer to the public if it can properly be regarded, in all the circumstances, as-

(a) not being calculated to result, directly or indirectly, in securities of the company becoming available to persons other than those receiving the offer, or

(b) otherwise being a private concern of the person receiving it and the person making it.

(4) An offer is to be regarded (unless the contrary is proved) as being a private concern of the person receiving it and the person making it if-

(a) it is made to a person already connected with the company and, where it is made on terms allowing that person to renounce his rights, the rights may only be renounced in favour of another person already connected with the company, or

(b) it is an offer to subscribe for securities to be held under an employees' share scheme and, where it is made on terms allowing that person to renounce his rights, the rights may only be renounced in favour of-

(i) another person entitled to hold securities under the scheme, or

(ii) a person already connected with the company.

(5) For the purposes of this section "person already connected with the company" means-

(a) an existing member or employee of the company,

(b) a member of the family of a person who is or was a member or employee of the company,

(c) the widow or widower of a person who was a member or employee of the company,

(d) an existing debenture holder of the company, or

(e) a trustee (acting in his capacity as such) of a trust of which the principal beneficiary is a person within any of subsections (5)(a) to (d).

(6) For the purposes of subsection 694(5)(b) the members of a person's family are the person's spouse and children (including step-children) and their descendants.

695. Enforcement of prohibition: order restraining proposed contravention

(1) If it appears to the Court-

(a) on an application under this section, or

(b) in proceedings under Part 28 (protection of members against unfair prejudice),

that a company is proposing to act in contravention of section 693 (prohibition of public offers by private companies), the Court shall make an order under this section.

(2) An order under this section is an order restraining the company from contravening that section.

(3) An application for an order under this section may be made by-

(a) a member or creditor of the company, or

(b) the Registrar.

696. Enforcement of prohibition: orders available to the Court after contravention

(1) This section applies if it appears to the Court-

(a) on an application under this section, or

(b) in proceedings under Part 28 (protection of members against unfair prejudice),

that a company has acted in contravention of section 693 (prohibition of public offers by private companies).

(2) The Court must make an order requiring the company to re-register as a public company unless it appears to the Court-

(a) that the company does not meet the requirements for re-registration as a public company, and

(b) that it is impractical or undesirable to require it to take steps to do so.

(3) If it does not make an order for re-registration, the Court may make either or both of the following-

(a) a remedial order (see section 697), or

(b) an order for the compulsory winding up of the company.

(4) An application under this section may be made by-

(a) a member of the company who-

(i) was a member at the time the offer was made (or, if the offer was made over a period, at any time during that period), or

(ii) became a member as a result of the offer,

(b) a creditor of the company who was a creditor at the time the offer was made (or, if the offer was made over a period, at any time during that period), or

(c) the Registrar.

697. Enforcement of prohibition: remedial order

(1) A "remedial order" is an order for the purpose of putting a person affected by anything done in contravention of section 693 (prohibition of public offers by private company) in the position he would have been in if it had not been done.

(2) The following provisions are without prejudice to the generality of the power to make such an order.

(3) Where a private company has-

(a) allotted securities pursuant to an offer to the public, or

(b) allotted or agreed to allot securities with a view to their being offered to the public,

a remedial order may require any person knowingly concerned in the contravention of section 693 to offer to purchase any of those securities at such price and on such other terms as the Court thinks fit.

(4) A remedial order may be made-

(a) against any person knowingly concerned in the contravention, whether or not an officer of the company,

(b) notwithstanding anything in the company's constitution (which includes, for this purpose, the terms on which any securities of the company are allotted or held),

(c) whether or not the holder of the securities subject to the order is the person to whom the company allotted or agreed to allot them.

(5) Where a remedial order is made against the company itself, the Court may provide for the reduction of the company's capital accordingly.

698. Validity of allotment etc not affected

Nothing in this Chapter affects the validity of any allotment or sale of securities or of any agreement to allot or sell securities.

Chapter 2

MINIMUM SHARE CAPITAL REQUIREMENT FOR PUBLIC COMPANIES

699. Public company: requirement as to minimum share capital

(1) A company that is a public company (otherwise than by virtue of re-registration as a public company) must not do business or exercise any borrowing powers unless the Registrar has issued it with a certificate under this section (a "trading certificate").

(2) The Registrar shall issue a trading certificate if, on an application made in accordance with section 700, he is satisfied that the company's allotted share capital is not less than the authorised minimum.

(3) For this purpose a share allotted in pursuance of an employees' share scheme shall not be taken into account unless paid up in full.

(4) A trading certificate has effect from the date on which it is issued and is conclusive evidence that the company is entitled to do business and exercise any borrowing powers.

700. Procedure for obtaining certificate

(1) An application for a certificate under section 699 must-

(a) state that the company's allotted share capital is not less than the authorised minimum amount,

(b) specify the amount, or estimated amount, of the company's preliminary expenses,

(c) specify any amount or benefit paid or given, or intended to be paid or given, to any promoter of the company, and the consideration for the payment or benefit, and

(d) be accompanied by a statement of compliance.

(2) The statement of compliance is a statement that the company meets the requirements for the issue of a certificate under section 699.

(3) The Registrar may accept the statement of compliance as sufficient evidence of the matters stated in it.

701. The authorised minimum

(1) "The authorised minimum", in relation to a public company's allotted share capital is 50,000 US dollars.

(2) The Board may make rules prescribing the amounts in other currencies that are for the time being to be treated as equivalent to the US dollar amount of the authorised minimum.

(3) This power may be exercised from time to time as appears to the Board to be appropriate.

(4) This section has effect subject to any exercise of the power conferred by section 702 (power to alter authorised minimum).

702. Power to alter authorised minimum

(1) The Board may make rules which-

(a) alter the US dollar amount of the authorised minimum, and

(b) make a corresponding alteration of the prescribed equivalent amount in any other currency authorised pursuant to subsection 702(2).

(2) Rules under this section that increase the authorised minimum may-

(a) require a public company having an allotted share capital of which is less than the amount specified in the order to-

(i) increase that value to not less than that amount, or

(ii) re-register as a private company,

(b) make provision in connection with any such requirement for any of the matters for which provision is made by these Regulations relating to-

(i) a company's registration, re-registration or change of name,

(ii) payment for shares comprised in a company's share capital, and

(iii) offers to the public of shares in or debentures of a company,

including provision as to the consequences (in criminal law or otherwise) of a failure to comply with any requirement of the order,

(c) provide for any provision of the order to come into force on different days for different purposes.

703. Authorised minimum: application of initial requirement

(1) The initial requirement for a public company to have allotted share capital of not less than the authorised minimum, that is-

(a) the requirement in section 699(2) for the issue of a trading certificate, or

(b) the requirement in section 77(2)(a) for re-registration as a public company,

must be met either by reference to allotted share capital denominated in US dollars or by reference to allotted share capital denominated in another approved currency (but not partly in one and partly in the other).

(2) Whether the requirement is met is determined in the first case by reference to the US dollar amount and in the second case by reference to the prescribed equivalent in another approved currency.

(3) No account is to be taken of any allotted share capital of the company denominated in a currency other than US dollars or another currency that has been approved by the Board pursuant to subsection 702(1)(b).

(4) If the company could meet the requirement either by reference to share capital denominated in US dollars or by reference to share capital denominated in another approved currency, it must elect in its application for a trading certificate or, as the case may be, for re-registration as a public company which is to be the currency by reference to which the matter is determined.

704. Authorised minimum: application where shares denominated in different currencies etc

(1) The Board may make rules as to the application of the authorised minimum in relation to a public company that-

(a) has shares denominated-

(i) in more than one currency, or

(ii) in a currency other than US dollars or another approved currency,

(b) redenominates the whole or part of its allotted share capital, or

(c) allots new shares.

(2) The rules may make provision as to the currencies, exchange rates and dates by reference to which it is to be determined whether the company's allotted share capital is less than the authorised minimum.

(3) The rules may provide that where-

(a) a company has redenominated the whole or part of its allotted share capital, and

(b) the effect of the redenomination is that the company's allotted share capital is less than the authorised minimum,

the company must re-register as a private company.

(4) Rules under subsection (3) may make provision corresponding to any provision made by sections 604 to 607 (re-registration as private company in consequence of cancellation of shares).

(5) Any rules made by the Board under this section have effect subject to section 703 (authorised minimum: application of initial requirement).

705. Consequences of doing business etc without a trading certificate

(1) If a company does business or exercises any borrowing powers in contravention of section 699, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(2) A person who contravenes the Regulations under subsection (1) is liable to a fine of up to level 8.

(3) A contravention of section 699 does not affect the validity of a transaction entered into by the company, but if a company-

(a) enters into a transaction in contravention of that section, and

(b) fails to comply with its obligations in connection with the transaction within 21 days from being called on to do so,

the directors of the company are jointly and severally liable to indemnify any other party to the transaction in respect of any loss or damage suffered by him by reason of the company's failure to comply with its obligations.

(4) The directors who are so liable are those who were directors at the time the company entered into the transaction.

PART 20

CERTIFICATION AND TRANSFER OF SECURITIES

CHAPTER 1

CERTIFICATION AND TRANSFER OF SECURITIES: GENERAL

706. Share certificate to be evidence of title

(1) A certificate executed by a company in accordance with section 39 (execution of documents) specifying any shares held by a member is prima facie evidence of his title to the shares.

707. Duty of company as to issue of certificates etc on allotment

(1) A company must, within two months after the allotment of any of its shares or debentures complete and have ready for delivery -

(a) the certificates of the shares allotted, or

(b) the debentures allotted.

(2) Subsection (1) does not apply-

(a) if the conditions of issue of the shares or debentures provide otherwise, or

(b) in the case of allotment to a infrastructure body (see section 715).

(3) If default is made in complying with subsection (1) a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who contravenes these Regulations under subsection (3) is liable to a level 2 fine.

708. Registration of transfer

(1) A company may not register a transfer of shares in or debentures of the company unless-

(a) a proper instrument of transfer has been delivered to it, or

(b) the transfer is in accordance with rules made under Chapter 2 of this Part.

(2) Subsection (1) does not affect any power of the company to register as shareholder or debenture holder a person to whom the right to any shares in or debentures of the company has been transmitted by operation of law.

709. Procedure on transfer being lodged

(1) When a transfer of shares in or debentures of a company has been lodged with the company, the company must either-

(a) register the transfer, or

(b) give the transferee notice of refusal to register the transfer, together with its reasons for the refusal,

as soon as practicable and in any event within two months after the date on which the transfer is lodged with it.

(2) If the company refuses to register the transfer, it must provide the transferee with such further information about the reasons for the refusal as the transferee may reasonably request.

This does not include copies of minutes of meetings of directors.

(3) If a company fails to comply with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(4) A person who contravenes these Regulations under subsection (3) is liable to a level 2 fine.

(5) This section does not apply in relation to transmission of shares or debentures by operation of law.

710. Transfer of shares on application of transferor

On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

711. Execution of share transfer by personal representative

An instrument of transfer of the share or other interest of a deceased member of a company-

(a) may be made by a person responsible for administering his estate (a "personal representative") although the personal representative is not himself a member of the company, and

(b) is as effective as if the personal representative had been such a member at the time of the execution of the instrument.

712. Evidence of grant of probate etc

The production to a company of any document that is by the law applicable in the Abu Dhabi Global Market, or the law of the jurisdiction of incorporation or nationality of a deceased member sufficient evidence of-

(a) the grant of probate of the will of a deceased person, or

(b) confirmation as a personal representative of a deceased person,

shall be accepted by the company as sufficient evidence of the authority of the personal representative to administer the estate of a deceased member.

713. Certification of instrument of transfer

(1) The certification by a company of an instrument of transfer of any shares in, or debentures of, the company is to be taken as a representation by the company to any person acting on the faith of the certification that there have been produced to the company such documents as on their face show a prima facie title to the shares or debentures in the transferor named in the instrument.

(2) The certification is not to be taken as a representation that the transferor has any title to the shares or debentures.

(3) Where a person acts on the faith of a false certification by a company made negligently, the company is under the same liability to him as if the certification had been made fraudulently.

(4) For the purposes of this section-

(a) an instrument of transfer is certificated if it bears the words "certificate lodged" (or words to the like effect),

(b) the certification of an instrument of transfer is made by a company if-

(i) the person issuing the instrument is a person authorised to issue certificated instruments of transfer on the company's behalf, and

(ii) the certification is signed by a person authorised to certificate transfers on the company's behalf or by an officer or employee either of the company or of a body corporate so authorized,

(c) a certification is treated as signed by a person if-

(i) it purports to be authenticated by his signature or initials (whether handwritten or not), and

(ii) it is not shown that the signature or initials was or were placed there neither by himself nor by a person authorised to use the signature or initials for the purpose of certificating transfers on the company's behalf.

714. Duty of company as to issue of certificates etc on transfer

(1) A company must, within two months after the date on which a transfer of any of its shares or debentures is lodged with the company, complete and have ready for delivery-

(a) the certificates of the shares transferred, or

(b) the debentures transferred.

(2) For this purpose a "transfer" means a transfer duly stamped and otherwise valid but does not include a transfer that the company is for any reason entitled to refuse to register and does not register.

(3) Subsection (1) does not apply-

(a) if the conditions of issue of the shares or debentures provide otherwise, or

(b) in the case of a transfer to a infrastructure body (see section 715).

(4) If default is made in complying with subsection (1) a contravention of these Regulations is committed by every officer of the company who is in default.

(5) A person who contravenes these Regulations under subsection (4) is liable to a level 2 fine.

715. Issue of certificates etc: allotment or transfer to infrastructure body

(1) A company-

(a) of which shares or debentures are allotted to a infrastrucutre body, or

(b) with which a transfer for transferring shares or debentures to an infrastructure body is lodged,

is not required in consequence of that allotment or transfer to comply with section 707(1) or 714(1) (duty of company as to issue of certificates etc).

(2) A "infrastructure body" means-

(a) a recognised clearing house acting in relation to a Recognised Investment Exchange, or

(b) a nominee of-

(i) a recognised clearing house acting in that way, or

(ii) a recognised investment exchange,

designated for the purposes of this section in the rules of the recognised investment exchange in question.

716. Issue of certificates etc: Court order to make good default

(1) If a company on which a notice has been served requiring it to make good any default in complying with-

(a) section 707(1) (duty of company as to issue of certificates etc on allotment), or

(b) section 714(1) (duty of company as to issue of certificates etc on transfer),

fails to make good the default within ten days after service of the notice, the person entitled to have the certificates or the debentures delivered to him may apply to the Court.

(2) The Court may on such an application make an order directing the company and any officer of it to make good the default within such time as may be specified in the order.

(3) The order may provide that all costs of and incidental to the application are to be borne by the company or by an officer of it responsible for the default.

CHAPTER 2

EVIDENCING AND TRANSFER OF TITLE TO SECURITIES WITHOUT WRITTEN INSTRUMENT

717. Scope of this Chapter

In this Chapter-

(a) references to title to securities include any legal or equitable interest in securities, and

(b) references to a transfer of title include a transfer by way of security.

718. Provision enabling procedures for evidencing and transferring title

(1) The Board may make rules which provide for title to securities to be evidenced and transferred without a written instrument.

(2) The rules may make provision-

(a) for procedures for recording and transferring title to securities, and

(b) for the regulation of those procedures and the persons responsible for or involved in their operation.

(3) The rules must contain such safeguards as appear to the authority making the rules appropriate for the protection of investors and for ensuring that competition is not restricted, distorted or prevented.

(4) The rules may, for the purpose of enabling or facilitating the operation of the procedures provided for by the rules, make provision with respect to the rights and obligations of persons in relation to securities dealt with under the procedures.

(5) The rules may include provision for the purpose of giving effect to-

(a) the transmission of title to securities by operation of law,

(b) any restriction on the transfer of title to securities arising by virtue of the provisions of any enactment or instrument, Court order or agreement,

(c) any power conferred by any such provision on a person to deal with securities on behalf of the person entitled.

(6) The rules may make provision with respect to the persons responsible for the operation of the procedures provided for by the rules-

(a) as to the consequences of their insolvency or incapacity, or

(b) as to the transfer from them to other persons of their functions in relation to those procedures.

(7) The rules may confer functions on any person, including-

(a) the function of giving guidance or issuing a code of practice in relation to any provision made by the rules, and

(b) the function of making rules for the purposes of any provision made by the rules.

(8) The rules may, in prescribed cases, confer immunity from liability in damages.

719. Provision enabling or requiring arrangements to be adopted

(1) Rules under this Chapter may make provision-

(a) enabling the members of a company or of any designated class of companies to adopt, by ordinary resolution, arrangements under which title to securities is required to be evidenced or transferred (or both) without a written instrument, or

(b) requiring companies, or any designated class of companies, to adopt such arrangements.

(2) The rules may make such provision-

(a) in respect of all securities issued by a company, or

(b) in respect of all securities of a specified description.

(3) The arrangements provided for by rules making such provision as is mentioned in subsection (1) -

(a) must not be such that a person who but for the arrangements would be entitled to have his name entered in the company's register of members ceases to be so entitled, and

(b) must be such that a person who but for the arrangements would be entitled to exercise any rights in respect of the securities continues to be able effectively to control the exercise of those rights.

(4) The rules may-

(a) prohibit the issue of any certificate by the company in respect of the issue or transfer of securities,

(b) require the provision by the company to holders of securities of statements (at specified intervals or on specified occasions) of the securities held in their name, and

(c) make provision as to the matters of which any such certificate or statement is, or is not, evidence.

(5) In this section-

(a) references to a designated class of companies are to a class designated in the rules issued pursuant to this section or pursuant to section 720, and

(b) "specified" means specified in the rules.

720. Provision enabling or requiring arrangements to be adopted: order-making powers

(1) The Board may make rules which-

(a) designate classes of companies for the purposes of section 719 (provision enabling or requiring arrangements to be adopted),

(b) provide that, in relation to securities of a specified description-

(i) in a designated class of companies, or

(ii) in a specified company or class of companies,

specified provisions of rules made under this Chapter by virtue of that section either do not apply or apply subject to specified modifications.

(2) In subsection (1) "specified" means specified in the rules.

721. Provision that may be included in rules

Rules under this Chapter may-

(a) modify or exclude any provision of any enactment or instrument, or any rule of law,

(b) apply, with such modifications as may be appropriate, the provisions of any enactment or instrument,

(c) require the payment of fees, or enable persons to require the payment of fees, of such amounts as may be specified in the rules or determined in accordance with them,

(d) empower the authority making the rules to delegate to any person willing and able to discharge them any functions of the authority under the rules.

722. Resolutions to be forwarded to Registrar

Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to a resolution passed by virtue of rules made under this Chapter.

PART 21

INFORMATION ABOUT INTERESTS IN A COMPANY'S SHARES

723. Companies to which this Part applies

(1) This Part applies only to public companies.

(2) The Board may make rules providing for this Part to extend to such companies as it may specify.

724. Shares to which this Part applies

(1) References in this Part to a company's shares are to the company's issued shares of a class carrying rights to vote in all circumstances at general meetings of the company (including any shares held as treasury shares).

(2) The temporary suspension of voting rights in respect of any shares does not affect the application of this Part in relation to interests in those or any other shares.

725. Notice by company requiring information about interests in its shares

(1) A public company may give notice under this section to any person whom the company knows or has reasonable cause to believe-

(a) to be interested in the company's shares, or

(b) to have been so interested at any time during the three years immediately preceding the date on which the notice is issued.

(2) The notice may require the person-

(a) to confirm that fact or (as the case may be) to state whether or not it is the case, and

(b) if he holds, or has during that time held, any such interest, to give such further information as may be required in accordance with the following provisions of this section.

(3) The notice may require the person to whom it is addressed to give particulars of his own present or past interest in the company's shares (held by him at any time during the three year period mentioned in subsection (1)(b)).

(4) The notice may require the person to whom it is addressed, where-

(a) his interest is a present interest and another interest in the shares subsists, or

(b) another interest in the shares subsisted during that three year period at a time when his interest subsisted,

to give, so far as lies within his knowledge, such particulars with respect to that other interest as may be required by the notice.

(5) The particulars referred to in subsections (3) and (4) include-

(a) the identity of persons interested in the shares in question, and

(b) whether persons interested in the same shares are or were parties to-

(i) an agreement to which section 756 applies (certain share acquisition agreements), or

(ii) an agreement or arrangement relating to the exercise of any rights conferred by the holding of the shares.

(6) The notice may require the person to whom it is addressed, where his interest is a past interest, to give (so far as lies within his knowledge) particulars of the identity of the person who held that interest immediately upon his ceasing to hold it.

(7) The information required by the notice must be given within such reasonable time as may be specified in the notice.

726. Notice requiring information: order imposing restrictions on shares

(1) Where-

(a) a notice under section 725 (notice requiring information about interests in company's shares) is served by a company on a person who is or was interested in shares in the company, and

(b) that person fails to give the company the information required by the notice within the time specified in it,

the company may apply to the Court for an order directing that the shares in question be subject to restrictions.

For the effect of such an order see section 729 (consequences of order imposing restrictions).

(2) If the Court is satisfied that such an order may unfairly affect the rights of third parties in respect of the shares, the Court may, for the purpose of protecting those rights and subject to such terms as it thinks fit, direct that such acts by such persons or descriptions of persons and for such purposes as may be set out in the order shall not constitute a breach of the restrictions.

(3) On an application under this section the Court may make an interim order.

Any such order may be made unconditionally or on such terms as the Court thinks fit.

(4) Sections 730 to 734 make further provision about orders under this section.

727. Notice requiring information: offences

(1) A person who-

(a) fails to comply with a notice under section 725 (notice requiring information about interests in company's shares), or

(b) in purported compliance with such a notice-

(i) makes a statement that he knows to be false in a material particular, or

(ii) recklessly makes a statement that is false in a material particular,

contravenes these Regulations.

(2) A person does not contravene these Regulations under subsection (1)(a) if he proves that the requirement to give information was frivolous or vexatious.

(3) A person who contravenes these Regulations under subsection (1) is liable to a fine of up to level 8.

728. Notice requiring information: persons exempted from obligation to comply

(1) A person is not obliged to comply with a notice under section 725 (notice requiring information about interests in company's shares) if he is for the time being exempted by the Registrar from the operation of that section.

(2) The Registrar must not grant any such exemption unless it is satisfied that, having regard to any undertaking given by the person in question with respect to any interest held or to be held by him in any shares, there are special reasons why that person should not be subject to the obligations imposed by that section.

729. Consequences of order imposing restrictions

(1) The effect of an order under section 726 that shares are subject to restrictions is as follows-

(a) any transfer of the shares is void,

(b) no voting rights are exercisable in respect of the shares,

(c) no further shares may be issued in right of the shares or in pursuance of an offer made to their holder,

(d) except in a liquidation, no payment may be made of sums due from the company on the shares, whether in respect of capital or otherwise.

(2) Where shares are subject to the restriction in subsection (1)(a), an agreement to transfer the shares is void.

This does not apply to an agreement to transfer the shares on the making of an order under section 732 made by virtue of subsection (3)(b) (removal of restrictions in case of Court-approved transfer).

(3) Where shares are subject to the restriction in subsection (1)(c) or (d), an agreement to transfer any right to be issued with other shares in right of those shares, or to receive any payment on them (otherwise than in a liquidation), is void.

This does not apply to an agreement to transfer any such right on the making of an order under section 732 made by virtue of subsection (3)(b) (removal of restrictions in case of Court-approved transfer).

(4) The provisions of this section are subject-

(a) to any directions under section 726(2) or section 731(3) (directions for protection of third parties), and

(b) in the case of an interim order under section 726(3), to the terms of the order.

730. Penalty for attempted evasion of restrictions

(1) This section applies where shares are subject to restrictions by virtue of an order under section 726.

(2) A person contravenes these Regulations if he-

(a) exercises or purports to exercise any right-

(i) to dispose of shares that to his knowledge, are for the time being subject to restrictions, or

(ii) to dispose of any right to be issued with any such shares, or

(b) votes in respect of any such shares (whether as holder or proxy), or appoints a proxy to vote in respect of them, or

(c) being the holder of any such shares, fails to notify of their being subject to those restrictions a person whom he does not know to be aware of that fact but does know to be entitled (apart from the restrictions) to vote in respect of those shares whether as holder or as proxy, or being the holder of any such shares, or being entitled to a right to be issued with other shares in right of them, or to receive any payment on them (otherwise than in a liquidation), enters into an agreement which is void under section 729(2) or (3).

(3) If shares in a company are issued in contravention of these Regulations, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(4) A person who contravenes these Regulations under this section is liable to a level 2 fine.

(5) The provisions of this section are subject-

(a) to any directions under-

section 726(2) (directions for protection of third parties), or

section 731 or 732 (relaxation or removal of restrictions), and

(b) in the case of an interim order under section 726(3), to the terms of the order.

731. Relaxation of restrictions

(1) An application may be made to the Court on the ground that an order directing that shares shall be subject to restrictions unfairly affects the rights of third parties in respect of the shares.

(2) An application for an order under this section may be made by the company or by any person aggrieved.

(3) If the Court is satisfied that the application is well-founded, it may, for the purpose of protecting the rights of third parties in respect of the shares, and subject to such terms as it thinks fit, direct that such acts by such persons or descriptions of persons and for such purposes as may be set out in the order do not constitute a breach of the restrictions.

732. Removal of restrictions

(1) An application may be made to the Court for an order directing that the shares shall cease to be subject to restrictions.

(2) An application for an order under this section may be made by the company or by any person aggrieved.

(3) The Court must not make an order under this section unless-

(a) it is satisfied that the relevant facts about the shares have been disclosed to the company and no unfair advantage has accrued to any person as a result of the earlier failure to make that disclosure, or

(b) the shares are to be transferred for valuable consideration and the Court approves the transfer.

(4) An order under this section made by virtue of subsection (3)(b) may continue, in whole or in part, the restrictions mentioned in section 729(1)(c) and (d) (restrictions on issue of further shares or making of payments) so far as they relate to a right acquired or offer made before the transfer.

(5) Where any restrictions continue in force under subsection (4)-

(a) an application may be made under this section for an order directing that the shares shall cease to be subject to those restrictions, and

(b) subsection (3) does not apply in relation to the making of such an order.

733. Order for sale of shares

(1) The Court may order that the shares subject to restrictions be sold, subject to the Court's approval as to the sale.

(2) An application for an order under subsection (1) may only be made by the company.

(3) Where the Court has made an order under this section, it may make such further order relating to the sale or transfer of the shares as it thinks fit.

(4) An application for an order under subsection (3) may be made-

(a) by the company,

(b) by the person appointed by or in pursuance of the order to effect the sale, or

(c) by any person interested in the shares.

(5) On making an order under subsection (1) or (3) the Court may order that the applicant's costs be paid out of the proceeds of sale.

734. Application of proceeds of sale under Court order

(1) Where shares are sold in pursuance of an order of the Court under section 733, the proceeds of the sale, less the costs of the sale, must be paid into Court for the benefit of the persons who are beneficially interested in the shares.

(2) A person who is beneficially interested in the shares may apply to the Court for the whole or part of those proceeds to be paid to him.

(3) On such an application the Court shall order the payment to the applicant of-

(a) the whole of the proceeds of sale together with any interest on them, or

(b) if another person had a beneficial interest in the shares at the time of their sale, such proportion of the proceeds and interest as the value of the applicant's interest in the shares bears to the total value of the shares.

This is subject to the following qualification.

(4) If the Court has ordered under section 733(5) that the costs of an applicant under that section are to be paid out of the proceeds of sale, the applicant is entitled to payment of his costs (or expenses) out of those proceeds before any person interested in the shares receives any part of those proceeds.

Power of members to require company to act

735. Power of members to require company to act

(1) The members of a company may require it to exercise its powers under section 725 (notice requiring information about interests in shares).

(2) A company is required to do so once it has received requests (to the same effect) from members of the company holding at least 10% of such of the paid up capital of the company as carries a right to vote at general meetings of the company (excluding any voting rights attached to any shares in the company held as treasury shares).

(3) A request-

(a) may be in hard copy form or in electronic form,

(b) must-

(i) state that the company is requested to exercise its powers under section 725,

(ii) specify the manner in which the company is requested to act, and

(iii) give reasonable grounds for requiring the company to exercise those powers in the manner specified, and

(c) must be authenticated by the person or persons making it.

736. Duty of company to comply with requirement

(1) A company that is required under section 735 to exercise its powers under section 725 (notice requiring information about interests in company's shares) must exercise those powers in the manner specified in the requests.

(2) If default is made in complying with subsection (1) a contravention of these Regulations is committed by every officer of the company who is in default.

(3) A person who contravenes these Regulations under this section is liable to a fine of up to level 7.

737. Report to members on outcome of investigation

(1) On the conclusion of an investigation carried out by a company in pursuance of a requirement under section 735 the company must cause a report of the information received in pursuance of the investigation to be prepared.

The report must be made available for inspection within a reasonable period (not more than 15 days) after the conclusion of the investigation.

(2) Where-

(a) a company undertakes an investigation in pursuance of a requirement under section 735, and

(b) the investigation is not concluded within three months after the date on which the company became subject to the requirement,

the company must cause to be prepared in respect of that period, and in respect of each succeeding period of three months ending before the conclusion of the investigation, an interim report of the information received during that period in pursuance of the investigation.

(3) Each such report must be made available for inspection within a reasonable period (not more than 15 days) after the end of the period to which it relates.

(4) The reports must be retained by the company for at least six years from the date on which they are first made available for inspection and must be kept available for inspection during that time-

(a) at the company's registered office, or

(b) at a place specified in rules made by the Board under section 996 (rules about where certain company records to be kept available for inspection).

(5) The company must give notice to the Registrar-

(a) of the place at which the reports are kept available for inspection, and

(b) of any change in that place,

unless they have at all times been kept at the company's registered office or with the company's registered agent.

(6) The company must within three days of making any report prepared under this section available for inspection, notify the members who made the requests under section 735 where the report is so available.

(7) For the purposes of this section an investigation carried out by a company in pursuance of a requirement under section 735 is concluded when-

(a) the company has made all such inquiries as are necessary or expedient for the purposes of the requirement, and

(b) in the case of each such inquiry-

(i) a response has been received by the company, or

(ii) the time allowed for a response has elapsed.

738. Report to members: offences

(1) If default is made for 14 days in complying with section 737(5) (notice to Registrar of place at which reports made available for inspection) a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(2) A person who contravenes these Regulations under subsection (1) is liable to a level 2 fine.

(3) If default is made in complying with any other provision of section 737 (report to members on outcome of investigation), a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who contravenes these Regulations under subsection (3) is liable to a level 2 fine.

739. Right to inspect and request copy of reports

(1) Any report prepared under section 737 must be open to inspection by any person without charge.

(2) Any person is entitled, on request and on payment of such fee as may be prescribed, to be provided with a copy of any such report or any part of it. The copy must be provided within ten days after the request is received by the company.

(3) In the case of any such refusal or default the Court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requiring it.

740. Register of interests disclosed

(1) The company must keep a register of information received by it in pursuance of a requirement imposed under section 725 (notice requiring information about interests in company's shares).

(2) A company which receives any such information must, within three (3) days of the receipt, enter in the register-

(a) the fact that the requirement was imposed and the date on which it was imposed, and

(b) the information received in pursuance of the requirement.

(3) The information must be entered against the name of the present holder of the shares in question or, if there is no present holder or the present holder is not known, against the name of the person holding the interest.

(4) The register must be made up so that the entries against the names entered in it appear in chronological order.

(5) The company is not by virtue of anything done for the purposes of this section affected with notice of, or put upon inquiry as to, the rights of any person in relation to any shares.

741. Register to be kept available for inspection

(1) The register kept under section 740 (register of interests disclosed) must be kept available for inspection-

(a) at the company's registered office, or

(b) at a place specified in rules made by the Board under section 996 (rules about where certain company records to be kept available for inspection).

(2) A company must give notice to the Registrar of companies of the place where the register is kept available for inspection and of any change in that place.

(3) No such notice is required if the register has at all times been kept available for inspection at the company's registered office.

(4) If default is made in complying with subsection (1), or a company makes default for 14 days in complying with subsection (2), a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who contravenes these Regulations under this section is liable to a level 2 fine.

742. Associated index

(1) Unless the register kept under section 740 (register of interests disclosed) is kept in such a form as itself to constitute an index, the company must keep an index of the names entered in it.

(2) The company must make any necessary entry or alteration in the index within ten days after the date on which any entry or alteration is made in the register.

(3) The index must contain, in respect of each name, a sufficient indication to enable the information entered against it to be readily found.

(4) The index must be at all times kept available for inspection at the same place as the register.

(5) If default is made in complying with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(6) A person who contravenes these Regulations under this section is liable to a level 3 fine.

743. Rights to inspect and require copy of entries

(1) The register required to be kept under section 740 (register of interests disclosed), and any associated index, must be open to inspection by any person without charge.

(2) Any person is entitled, on request and on payment of such fee as may be prescribed, to be provided with a copy of any entry in the register.

(3) A person seeking to exercise either of the rights conferred by this section must make a request to the company to that effect.

(4) The request must contain the following information-

(a) in the case of an individual, his name and address,

(b) in the case of an organisation, the name and address of an individual responsible for making the request on behalf of the organization,

(c) the purpose for which the information is to be used, and

(d) whether the information will be disclosed to any other person, and if so-

(i) where that person is an individual, his name and address,

(ii) where that person is an organisation, the name and address of an individual responsible for receiving the information on its behalf, and

(iii) the purpose for which the information is to be used by that person.

744. Court supervision of purpose for which rights may be exercised

(1) Where a company receives a request under section 743 (register of interests disclosed: right to inspect and require copy), it must-

(a) comply with the request if it is satisfied that it is made for a proper purpose, and

(b) refuse the request if it is not so satisfied.

(2) If the company refuses the request, it must inform the person making the request, stating the reason why it is not satisfied.

(3) A person whose request is refused may apply to the Court.

(4) If an application is made to the Court-

(a) the person who made the request must notify the company, and

(b) the company must use its best endeavours to notify any persons whose details would be disclosed if the company were required to comply with the request.

(5) If the Court is not satisfied that the inspection or copy is sought for a proper purpose, it shall direct the company not to comply with the request.

(6) If the Court makes such a direction and it appears to the Court that the company is or may be subject to other requests made for a similar purpose (whether made by the same person or different persons), it may direct that the company is not to comply with any such request.

The order must contain such provision as appears to the Court appropriate to identify the requests to which it applies.

(7) If the Court does not direct the company not to comply with the request, the company must comply with the request immediately upon the Court giving its decision or, as the case may be, the proceedings being discontinued.

745. Register of interests disclosed: refusal of inspection or default in providing copy

(1) If an inspection required under section 743 (register of interests disclosed: right to inspect and require copy) is refused or default is made in providing a copy required under that section, otherwise than in accordance with an order of the Court, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(2) A person who contravenes these Regulations under this section is liable to a level 3 fine.

(3) In the case of any such refusal or default the Court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requesting it.

746. Register of interests disclosed: offences in connection with request for or disclosure of information

(1) It is a contravention of these Regulations for a person knowingly or recklessly to make in a request under section 743 (register of interests disclosed: right to inspect or require copy) a statement that is misleading, false or deceptive in a material particular.

(2) It is a contravention of these Regulations for a person in possession of information obtained by exercise of either of the rights conferred by that section-

(a) to do anything that results in the information being disclosed to another person, or

(b) to fail to do anything with the result that the information is disclosed to another person,

knowing, or having reason to suspect, that person may use the information for a purpose that is not a proper purpose.

(3) A person who contravenes these Regulations under this section is liable to a fine of up to level 8.

747. Entries not to be removed from register

(1) Entries in the register kept under section 740 (register of interests disclosed) must not be deleted except in accordance with-

section 748 (old entries), or

section 749 (incorrect entry relating to third party).

(2) If an entry is deleted in contravention of subsection (1), the company must restore it as soon as reasonably practicable.

748. Removal of entries from register: old entries

A company may remove an entry from the register kept under section 740 (register of interests disclosed) if more than six years have elapsed since the entry was made.

749. Removal of entries from register: incorrect entry relating to third party

(1) This section applies where in pursuance of an obligation imposed by a notice under section 725 (notice requiring information about interests in company's shares) a person gives to a company the name and address of another person as being interested in shares in the company.

(2) That other person may apply to the company for the removal of the entry from the register.

(3) If the company is satisfied that the information in pursuance of which the entry was made is incorrect, it shall remove the entry.

(4) If an application under subsection (3) is refused, the applicant may apply to the Court for an order directing the company to remove the entry in question from the register.

The Court may make such an order if it thinks fit.

750. Adjustment of entry relating to share acquisition agreement

(1) If a person who is identified in the register kept by a company under section 740 (register of interests disclosed) as being a party to an agreement to which section 756 applies (certain share acquisition agreements) ceases to be a party to the agreement, he may apply to the company for the inclusion of that information in the register.

(2) If the company is satisfied that he has ceased to be a party to the agreement, it shall record that information (if not already recorded) in every place where his name appears in the register as a party to the agreement.

(3) If an application under this section is refused (otherwise than on the ground that the information has already been recorded), the applicant may apply to the Court for an order directing the company to include the information in question in the register.

The Court may make such an order if it thinks fit.

751. Duty of company ceasing to be public company

(1) If a company ceases to be a public company, it must continue to keep any register kept under section 740 (register of interests disclosed), and any associated index, until the end of the period of six years after it ceased to be such a company.

(2) If default is made in complying with this section, a contravention of these Regulations is committed by-

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who contravenes these Regulations under this section is liable to a level 2 fine.

752. Interest in shares: general

(1) This section applies to determine for the purposes of this Part whether a person has an interest in shares.

(2) In this Part-

(a) a reference to an interest in shares includes an interest of any kind whatsoever in the shares, and

(b) any restraints or restrictions to which the exercise of any right attached to the interest is or may be subject shall be disregarded.

(3) Where an interest in shares is comprised in property held on trust, every beneficiary of the trust is treated as having an interest in the shares.

(4) A person is treated as having an interest in shares if-

(a) he enters into a contract to acquire them, or

(b) not being the registered holder, he is entitled-

(i) to exercise any right conferred by the holding of the shares, or

(ii) to control the exercise of any such right.

(5) For the purposes of subsection (4)(b) a person is entitled to exercise or control the exercise of a right conferred by the holding of shares if he-

(a) has a right (whether subject to conditions or not) the exercise of which would make him so entitled, or

(b) is under an obligation (whether subject to conditions or not) the fulfilment of which would make him so entitled.

(6) A person is treated as having an interest in shares if-

(a) he has a right to call for delivery of the shares to himself or to his order, or

(b) he has a right to acquire an interest in shares or is under an obligation to take an interest in shares.

This applies whether the right or obligation is conditional or absolute.

(7) Persons having a joint interest are treated as each having that interest.

(8) It is immaterial that shares in which a person has an interest are unidentifiable.

753. Interest in shares: right to subscribe for shares

(1) Section 725 (notice by company requiring information about interests in its shares) applies in relation to a person who has, or previously had, or is or was entitled to acquire, a right to subscribe for shares in the company as it applies in relation to a person who is or was interested in shares in that company.

(2) References in that section to an interest in shares shall be read accordingly.

754. Interest in shares: family interests

For the purposes of this Part a person is taken to be interested in shares in which-

(a) his spouse,

(b) any infant child or step-child of his, or

(c) either of his parents,

is interested.

755. Interest in shares: corporate interests

(1) For the purposes of this Part a person is taken to be interested in shares if a body corporate is interested in them and-

(a) the body or its directors are accustomed to act in accordance with his directions or instructions, or

(b) he is entitled to exercise or control the exercise of one-third or more of the voting power at general meetings of the body.

(2) For the purposes of this section a person is treated as entitled to exercise or control the exercise of voting power if-

(a) another body corporate is entitled to exercise or control the exercise of that voting power, and

(b) he is entitled to exercise or control the exercise of one-third or more of the voting power at general meetings of that body corporate.

(3) For the purposes of this section a person is treated as entitled to exercise or control the exercise of voting power if-

(a) he has a right (whether or not subject to conditions) the exercise of which would make him so entitled, or

(b) he is under an obligation (whether or not subject to conditions) the fulfilment of which would make him so entitled.

756. Interest in shares: agreement to acquire interests in a particular company

(1) For the purposes of this Part an interest in shares may arise from an agreement between two or more persons that includes provision for the acquisition by any one or more of them of interests in shares of a particular public company (the "target company" for that agreement).

(2) This section applies to such an agreement if-

(a) the agreement includes provisions imposing obligations or restrictions on any one or more of the parties to it with respect to their use, retention or disposal of their interests in the shares of the target company acquired in pursuance of the agreement (whether or not together with any other interests of theirs in the company's shares to which the agreement relates), and

(b) an interest in the target company's shares is in fact acquired by any of the parties in pursuance of the agreement.

(3) The reference in subsection (2) to the use of interests in shares in the target company is to the exercise of any rights or of any control or influence arising from those interests (including the right to enter into an agreement for the exercise, or for control of the exercise, of any of those rights by another person).

(4) Once an interest in shares in the target company has been acquired in pursuance of the agreement, this section continues to apply to the agreement so long as the agreement continues to include provisions of any description mentioned in subsection (2).

This applies irrespective of-

(a) whether or not any further acquisitions of interests in the company's shares take place in pursuance of the agreement,

(b) any change in the persons who are for the time being parties to it,

(c) any variation of the agreement.

References in this subsection to the agreement include any agreement having effect (whether directly or indirectly) in substitution for the original agreement.

(5) In this section-

(a) "agreement" includes any agreement or arrangement, and

(b) references to provisions of an agreement include-

(i) undertakings, expectations or understandings operative under an arrangement, and

(ii) any provision whether express or implied and whether absolute or not.

References elsewhere in this Part to an agreement to which this section applies have a corresponding meaning.

(6) This section does not apply-

(a) to an agreement that is not legally binding unless it involves mutuality in the undertakings, expectations or understandings of the parties to it, or

(b) to an agreement to underwrite or sub-underwrite an offer of shares in a company, provided the agreement is confined to that purpose and any matters incidental to it.

757. Extent of obligation in case of share acquisition agreement

(1) For the purposes of this Part each party to an agreement to which section 756 applies is treated as interested in all shares in the target company in which any other party to the agreement is interested apart from the agreement (whether or not the interest of the other party was acquired, or includes any interest that was acquired, in pursuance of the agreement).

(2) For those purposes an interest of a party to such an agreement in shares in the target company is an interest apart from the agreement if he is interested in those shares otherwise than by virtue of the application of section 756 (and this section) in relation to the agreement.

(3) Accordingly, any such interest of the person (apart from the agreement) includes for those purposes any interest treated as his under section 754 or 755 (family or corporate interests) or by the application of section 756 (and this section) in relation to any other agreement with respect to shares in the target company to which he is a party.

(4) A notification with respect to his interest in shares in the target company made to the company under this Part by a person who is for the time being a party to an agreement to which section 756 applies must-

(a) state that the person making the notification is a party to such an agreement,

(b) include the names and (so far as known to him) the addresses of the other parties to the agreement, identifying them as such, and

(c) state whether or not any of the shares to which the notification relates are shares in which he is interested by virtue of section 756 (and this section) and, if so, the number of those shares.

758. Information protected from wider disclosure

(1) Information in respect of which a company is for the time being entitled to any exemption conferred by rules made under section 393(3) (information about related undertakings to be given in notes to accounts: exemption where disclosure harmful to company's business)-

(a) must not be included in a report under section 737 (report to members on outcome of investigation), and

(b) must not be made available under section 743 (right to inspect and request copy of entries).

(2) Where any such information is omitted from a report under section 737, that fact must be stated in the report.

759. Reckoning of periods for fulfilling obligations

Where the period allowed by any provision of this Part for fulfilling an obligation is expressed as a number of days, any day that is not a working day shall be disregarded in reckoning that period.

PART 22

DISTRIBUTIONS

CHAPTER 1

RESTRICTIONS ON WHEN DISTRIBUTIONS MAY BE MADE

760. Meaning of "distribution"

(1) In this Part "distribution" means every description of distribution of a company's assets to its members, whether in cash or otherwise, subject to the following exceptions.

(2) The following are not distributions for the purposes of this Part-

(a) an issue of shares as fully or partly paid bonus shares,

(b) the reduction of share capital-

(i) by extinguishing or reducing the liability of any of the members on any of the company's shares in respect of share capital not paid up, or

(ii) by repaying paid-up share capital,

(c) the redemption or purchase of any of the company's own shares out of capital (including the proceeds of any fresh issue of shares) or out of unrealised profits in accordance with Chapter 3, 4 or 5 of Part 17,

(d) a distribution of assets to members of the company on its winding up.

761. Distributions to be made only out of profits available for the purpose

(1) A company may only make a distribution out of profits available for the purpose.

(2) A company's profits available for distribution are its accumulated, realised profits, so far as not previously utilised by distribution or capitalisation, less its accumulated, realised losses, so far as not previously written off in a reduction or reorganisation of capital duly made.

762. Net asset restriction on distributions by public companies

(1) A public company may only make a distribution-

(a) if the amount of its net assets is not less than the aggregate of its called-up share capital and undistributable reserves, and

(b) if, and to the extent that, the distribution does not reduce the amount of those assets to less than that aggregate.

(2) For this purpose a company's "net assets" means the aggregate of the company's assets less the aggregate of its liabilities.

(3) "Liabilities" here includes provisions of any kind.

(4) A company's undistributable reserves are-

(a) its capital redemption reserve,

(b) the amount by which its accumulated, unrealised profits (so far as not previously utilised by capitalisation) exceed its accumulated, unrealised losses (so far as not previously written off in a reduction or reorganisation of capital duly made),

(c) any other reserve that the company is prohibited from distributing-

(i) by any regulation or law applicable in the Abu Dhabi Global Market (other than one contained in this Part), or

(ii) by its articles.

The reference in subsection (b) to capitalisation does not include a transfer of profits of the company to its capital redemption reserve.

CHAPTER 2

JUSTIFICATION OF DISTRIBUTION BY REFERENCE TO ACCOUNTS

763. Justification of distribution by reference to relevant accounts

(1) Whether a distribution may be made by a company without contravening this Part is determined by reference to the following items as stated in the relevant accounts-

(a) profits, losses, assets and liabilities,

(b) provisions of any kind,

(c) share capital and reserves (including undistributable reserves).

(2) The relevant accounts are the company's last annual accounts, except that-

(a) where the distribution would be found to contravene this Part by reference to the company's last annual accounts, it may be justified by reference to interim accounts, and

(b) where the distribution is proposed to be declared during the company's first accounting reference period, or before any accounts have been circulated in respect of that period, it may be justified by reference to initial accounts.

(3) The requirements of-

section 764 (as regards the company's last annual accounts),

section 765 (as regards interim accounts), and

section 766 (as regards initial accounts),

must be complied with, as and where applicable.

(4) If any applicable requirement of those sections is not complied with, the accounts may not be relied on for the purposes of this Part and the distribution is accordingly treated as contravening this Part.

764. Requirements where last annual accounts used

(1) The company's last annual accounts means the company's individual accounts that were last circulated to members in accordance with section 405 (duty to circulate copies of annual accounts and reports).

(2) The accounts must have been properly prepared in accordance with these Regulations, or have been so prepared subject only to matters that are not material for determining (by reference to the items mentioned in section 763(1)) whether the distribution would contravene this Part.

(3) Unless the company is exempt from audit and the directors take advantage of that exemption, the auditor must have made his report on the accounts.

(4) If that report was qualified-

(a) the auditor must have stated in writing (either at the time of his report or subsequently) whether in his opinion the matters in respect of which his report

is qualified are material for determining whether a distribution would contravene this Part, and

(b) a copy of that statement must-

(i) in the case of a private company, have been circulated to members in accordance with section 405 (duty to circulate copies of annual accounts and reports), or

(ii) in the case of a public company, have been laid before the company in general meeting.

(5) An auditor's statement is sufficient for the purposes of a distribution if it relates to distributions of a description that includes the distribution in question, even if at the time of the statement it had not been proposed.

765. Requirements where interim accounts used

(1) Interim accounts must be accounts that enable a reasonable judgment to be made as to the amounts of the items mentioned in section 763(1).

(2) Where interim accounts are prepared for a proposed distribution by a public company, the following requirements apply.

(3) The accounts must have been properly prepared, or have been so prepared subject to matters that are not material for determining (by reference to the items mentioned in section 763(1)) whether the distribution would contravene this Part.

(4) "Properly prepared" means prepared in accordance with section 387 (requirements for company individual accounts), applying those requirements with such modifications as are necessary because the accounts are prepared otherwise than in respect of an accounting reference period.

(5) The balance sheet comprised in the accounts must have been signed in accordance with section 401.

(6) A copy of the accounts must have been delivered to the Registrar.

Any requirement of these Regulations as to the delivery of a certified translation into English of any document forming part of the accounts must also have been met.

766. Requirements where initial accounts used

(1) Initial accounts must be accounts that enable a reasonable judgment to be made as to the amounts of the items mentioned in section 763(1).

(2) Where initial accounts are prepared for a proposed distribution by a public company, the following requirements apply.

(3) The accounts must have been properly prepared, or have been so prepared subject to matters that are not material for determining (by reference to the items mentioned in section 763(1)) whether the distribution would contravene this Part.

(4) "Properly prepared" means prepared in accordance with section 387 (requirements for company individual accounts), applying those requirements with such modifications as are necessary because the accounts are prepared otherwise than in respect of an accounting reference period.

(5) The company's auditor must have made a report stating whether, in his opinion, the accounts have been properly prepared.

(6) If that report was qualified-

(a) the auditor must have stated in writing (either at the time of his report or subsequently) whether in his opinion the matters in respect of which his report is qualified are material for determining whether a distribution would contravene this Part, and

(b) a copy of that statement must have been laid before the company in general meeting.

(7) A copy of the accounts, of the auditor's report and of any auditor's statement must have been delivered to the Registrar.

Any requirement of these Regulations as to the delivery of a certified translation into English of any of those documents must also have been met.

767. Successive distributions etc by reference to the same accounts

(1) In determining whether a proposed distribution may be made by a company in a case where-

(a) one or more previous distributions have been made in pursuance of a determination made by reference to the same relevant accounts, or

(b) relevant financial assistance has been given, or other relevant payments have been made, since those accounts were prepared,

the provisions of this Part apply as if the amount of the proposed distribution was increased by the amount of the previous distributions, financial assistance and other payments.

(2) The financial assistance and other payments that are relevant for this purpose are-

(a) financial assistance lawfully given by the company out of its distributable profits,

(b) financial assistance given by the company in contravention of section 617 or 618 (prohibited financial assistance) in a case where the giving of that assistance reduces the company's net assets or increases its net liabilities,

(c) payments made by the company in respect of the purchase by it of shares in the company, except a payment lawfully made otherwise than out of distributable profits,

(d) payments of any description specified in section 645 (payments apart from purchase price of shares to be made out of distributable profits).

(3) In this section “financial assistance” has the same meaning as in Chapter 2 of Part 17 (see section 616).

(4) For the purpose of applying subsection (2)(b) in relation to any financial assistance-

(a) “net assets” means the amount by which the aggregate amount of the company's assets exceeds the aggregate amount of its liabilities, and

(b) "net liabilities" means the amount by which the aggregate amount of the company's liabilities exceeds the aggregate amount of its assets,

taking the amount of the assets and liabilities to be as stated in the company's accounting records immediately before the financial assistance is given.

(5) For this purpose a company's liabilities include any amount retained as reasonably necessary for the purposes of providing for any liability-

(a) the nature of which is clearly defined, and

(b) which is either likely to be incurred or certain to be incurred but uncertain as to amount or as to the date on which it will arise.

CHAPTER 3

SUPPLEMENTARY PROVISIONS

Arrangement of provisions

768. Realised losses and profits and revaluation of fixed assets

(1) The following provisions have effect for the purposes of this Part.

(2) Realised losses include provisions of any kind (except revaluation provisions).

(3) A "revaluation provision" means a provision in respect of a diminution in value of a fixed asset appearing on a revaluation of all the fixed assets of the company, or of all of its fixed assets other than goodwill.

(4) For the purpose of subsections (2) and (3) any consideration by the directors of the value at a particular time of a fixed asset is treated as a revaluation provided-

(a) the directors are satisfied that the aggregate value at that time of the fixed assets of the company that have not actually been revalued is not less than the aggregate amount at which they are then stated in the company's accounts, and

(b) it is stated in a note to the accounts-

(i) that the directors have considered the value of some or all of the fixed assets of the company without actually revaluing them,

(ii) that they are satisfied that the aggregate value of those assets at the time of their consideration was not less than the aggregate amount at which they were then stated in the company's accounts, and

(iii) that accordingly, by virtue of this subsection, amounts are stated in the accounts on the basis that a revaluation of fixed assets of the company is treated as having taken place at that time.

(5) Where-

(a) on the revaluation of a fixed asset, an unrealised profit is shown to have been made, and

(b) on or after the revaluation, a sum is written off or retained for depreciation of that asset over a period,

an amount equal to the amount by which that sum exceeds the sum which would have been so written off or retained for the depreciation of that asset over that period, if that profit had not been made, is treated as a realised profit made over that period.

769. Determination of profit or loss in respect of asset where records incomplete

In determining for the purposes of this Part whether a company has made a profit or loss in respect of an asset where-

(a) there is no record of the original cost of the asset, or

(b) a record cannot be obtained without unreasonable expense or delay,

its cost is taken to be the value ascribed to it in the earliest available record of its value made on or after its acquisition by the company.

770. Treatment of development costs

(1) Where development costs are shown or included as an asset in a company's accounts, any amount shown or included in respect of those costs is treated for the purposes of section 761 (distributions to be made only out of profits available for the purpose) as a realised loss.

This is subject to the following exceptions.

(2) Subsection (1) does not apply to any part of that amount representing an unrealised profit made on revaluation of those costs.

(3) Subsection (1) does not apply if-

(a) there are special circumstances in the company's case justifying the directors in deciding that the amount there mentioned is not to be treated as required by subsection (1),

(b) it is stated in any note to the accounts, that the amount is not to be so treated, and

(c) the note explains the circumstances relied upon to justify the decision of the directors to that effect.

771. Distributions in kind: determination of amount

(1) This section applies for determining the amount of a distribution consisting of or including, or treated as arising in consequence of, the sale, transfer or other disposition by a company of a non-cash asset where-

(a) at the time of the distribution the company has profits available for distribution, and

(b) if the amount of the distribution were to be determined in accordance with this section, the company could make the distribution without contravening this Part.

(2) The amount of the distribution (or the relevant part of it) is taken to be-

(a) in a case where the amount or value of the consideration for the disposition is not less than the book value of the asset, zero,

(b) in any other case, the amount by which the book value of the asset exceeds the amount or value of any consideration for the disposition.

(3) For the purposes of subsection (1)(a) the company's profits available for distribution are treated as increased by the amount (if any) by which the amount or value of any consideration for the disposition exceeds the book value of the asset.

(4) In this section "book value", in relation to an asset, means-

(a) the amount at which the asset is stated in the relevant accounts, or

(b) where the asset is not stated in those accounts at any amount, zero.

(5) The provisions of Chapter 2 (justification of distribution by reference to accounts) have effect subject to this section.

772. Distributions in kind: treatment of unrealised profits

(1) This section applies where-

(a) a company makes a distribution consisting of or including, or treated as arising in consequence of, the sale, transfer or other disposition by the company of a non-cash asset, and

(b) any part of the amount at which that asset is stated in the relevant accounts represents an unrealised profit.

(2) That profit is treated as a realised profit for the purpose of determining the lawfulness of the distribution in accordance with this Part (whether before or after the distribution takes place).

773. Consequences of unlawful distribution

(1) This section applies where a distribution, or part of one, made by a company to one of its members is made in contravention of this Part.

(2) If at the time of the distribution the member knows or has reasonable grounds for believing that it is so made, he is liable-

(a) to repay it (or that part of it, as the case may be) to the company, or

(b) in the case of a distribution made otherwise than in cash, to pay the company a sum equal to the value of the distribution (or part) at that time.

(3) This is without prejudice to any obligation imposed apart from this section on a member of a company to repay a distribution unlawfully made to him.

(4) This section does not apply in relation to-

(a) financial assistance given by a company in contravention of section 617 or 618, or

(b) any payment made by a company in respect of the redemption or purchase by the company of shares in itself.

774. Restriction on application of unrealised profits

A company must not apply an unrealised profit in paying up debentures or any amounts unpaid on its issued shares.

775. Application of rules of law restricting distributions

(1) Except as provided in this section, the provisions of this Part are without prejudice to any law or regulation applicable in the Abu Dhabi Global Market restricting the sums out of which, or the cases in which, a distribution may be made.

(2) For the purposes of any law or regulation applicable in the Abu Dhabi Global Market requiring distributions to be paid out of profits or restricting the return of capital to members-

(a) section 771 (distributions in kind: determination of amount) applies to determine the amount of any distribution or return of capital consisting of or including, or treated as arising in consequence of the sale, transfer or other disposition by a company of a non-cash asset, and

(b) section 772 (distributions in kind: treatment of unrealised profits) applies as it applies for the purposes of this Part.

(3) In this section references to distributions are to amounts regarded as distributions for the purposes of any law or regulation applicable in the Abu Dhabi Global Market as is referred to in subsection (1).

776. Saving for other restrictions on distributions

The provisions of this Part are without prejudice to any law or regulation applicable in the Abu Dhabi Global Market, or any provision of a company's articles, restricting the sums out of which, or the cases in which, a distribution may be made.

777. Minor definitions

(1) The following provisions apply for the purposes of this Part.

(2) References to profit or losses of any description-

(a) are to profits or losses of that description made at any time, and

(b) except where the context otherwise requires, are to profits or losses of a revenue or capital character.

(3) "Capitalisation", in relation to a company's profits, means any of the following operations (whenever carried out)-

(a) applying the profits in wholly or partly paying up shares in the company to be allotted to members of the company as fully or partly paid bonus shares, or

(b) transferring the profits to capital redemption reserve.

(4) References to "realised profits" and "realised losses", in relation to a company's accounts, are to such profits or losses of the company as fall to be treated as realised in accordance with principles generally accepted at the time when the accounts are

prepared, with respect to the determination for accounting purposes of realised profits or losses.

(5) Subsection (4) is without prejudice to any specific provision for the treatment of profits or losses of any description as realised.

(6) "Fixed assets" means assets of a company which are intended for use on a continuing basis in the company's activities.

PART 23

ANNUAL CONFIRMATION OF ACCURACY OF INFORMATION ON THE REGISTER

778. Duty to deliver confirmation statements[23]

(1) Every company must deliver to the Registrar successive confirmation statements each of which is made up to the anniversary of the company's incorporation.

(2) Each return must–

(a) contain the information required by or under the following provisions of this Part and, where the company is a cell company, section 1052(2),

(b) be delivered to the Registrar within one month after the date to which it is made up.

(3) Confirmation statements of restricted scope companies will not be subject to public disclosure by the Registrar.

779. Contents ofconfirmation statement: general

(1) Every confirmation statement must state the date to which it is made up and contain the following information–

(a) the address of the company's registered office,

(b) the type of company it is and its principal business activities,

(c) the required particulars (see section 780) of–

(i) the directors of the company, and

(ii) in the case of a private company with a secretary or a public company, the secretary or joint secretaries.

(d) if any company records are (in accordance with regulations under section 996 (rules about where certain company records to be kept available for inspection)) kept at a place other than the company's registered office, the address of that place and the records that are kept there.

(2) The information as to the company's type must be given by reference to the classification scheme prescribed for the purposes of this section.

[23] Amended 23 February 2023

(3) The information as to the company's principal business activities may be given by reference to one or more categories of any prescribed system of classifying business activities.

(4) In this Part "return period", in relation to a confirmation statement, means the period beginning immediately after the anniversary of incorporation to which the last return was made up (or, in the case of the first return, with the incorporation of the company) and ending with the next anniversary of incorporation.

780. Required particulars of directors and secretaries

(1) For the purposes of section 779(1)(c) the required particulars of a director are–

(a) where the director is an individual, the particulars required by section 154 to be entered in the register of directors (subject to subsection (2) below), and

(b) where the director is a body corporate or a firm that is a legal person under the law by which it is governed, the particulars required by section 155 to be entered in the register of directors.

(2) The former name of a director who is an individual is a required particular in relation to a confirmation statement only if the director was known by the name for business purposes during the return period.

(3) For the purposes of section 779(1)(c)(ii) the required particulars of a secretary are–

(a) where a secretary is an individual, the particulars required by section 294 to be entered in the register of secretaries (subject to subsection (4) below), and

(b) where a secretary is a body corporate or a firm that is a legal person under the law by which it is governed, the particulars required by section 295 (1) to be entered in the register of secretaries.

(4) The former name of a secretary who is an individual is a required particular in relation to a confirmation statement only if the secretary was known by the name for business purposes during the return period.

(5) Where all the partners in a firm are joint secretaries, the required particulars are the particulars that would be required to be entered in the register of secretaries if the firm were a legal person and the firm had been appointed secretary.

781. Contents ofconfirmation statement: information about shares and share capital

(1) The confirmation statement of a company having a share capital must also contain the following information.

(2) The return must contain a statement of capital.

(3) The statement of capital must state with respect to the company's share capital at the date to which the return is made up–

(a) the total number of shares of the company,

(b) the aggregate value of those shares,

(c) for each class of shares–

(i) the voting rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate value of shares of that class, and

(d) the amount paid up and the amount (if any) unpaid on each share.

(4) If any of the company's shares were shares admitted to trading, the confirmation statement must also state whether any of the company's shares were, at any time during the return period, shares admitted to trading on a recognised investment exchange, and state the name of each exchange.

782. Contents ofconfirmation statement: information about shareholders

(1) The return must contain the name (as it appears in the company's register of members) of every person who was a member of the company at any time during the return period. The return must conform to the following requirements for the purpose of enabling the entries relating to any given person to be easily found–

(a) the entries must be listed in alphabetical order by name, or

(b) the return must have annexed to it an index that is sufficient to enable the name of the person in question to be easily found.

(2) The return must also state–

(a) the number of shares of each class held at the end of the date to which the return is made up by each person who was a member of the company at that time,

(b) the number of shares of each class transferred during the return period by or to each person who was a member of the company at any time during that period, and

(c) the dates of registration of those transfers.

(3) If either of the two immediately preceding returns has given the full particulars required by subsections (1) and (2), the return need only give such particulars as relate–

(a) to persons who became, or ceased to be, members during the return period, and

(b) to shares transferred during that period.

783. Failure to deliver confirmation statement

(1) If a company fails to deliver a confirmation statement before the end of the period of one month after a return date, an offence is committed by–

(a) the company,

(b) subject to subsection (4)–

(i) every director of the company, and

(ii) in the case of a private company with a secretary or a public company, every secretary of the company,

(c) every other officer of the company who is in default.

For this purpose a shadow director is treated as a director.

(2) A person who commits a contravention of subsection (1) is liable to a level 2 fine.

(3) The contravention continues until such time as a confirmation statement made up to that return date is delivered by the company to the Registrar.

(4) It is a defence for a director or secretary charged with an offence under subsection (1)(b) to prove that he took all reasonable steps to avoid the commission or continuation of the offence.

(5) In the case of continued contravention, an offence is also committed by every officer of the company who did not commit an offence under subsection (1) in relation to the initial contravention but is in default in relation to the continued contravention.

A person who commits a contravention of this subsection is liable is liable to a level 2 fine.

Part 24

COMPANY CHARGES

Chapter 1

REGISTRATION OF COMPANY CHARGES

784. Charges created by a company

(1) Subject to subsection (6), this section applies where a company creates a charge.

(2) The Registrar must register the charge against the name of the company and make such register available to the public if, before the end of the period allowed for delivery, the company or any person interested in the charge delivers to the Registrar for registration a charge filing statement (see section 787).

(3) Where the charge is created or evidenced by an instrument, the Registrar is required to register it only if a certified copy of the instrument is delivered to the Registrar with the charge filing statement.

(4) "The period allowed for delivery" is 21 days beginning with the day after the date of creation of the charge (see section 788), unless an order allowing an extended period is made under section 789(3).

(5) Where an order is made under section 789(3) a copy of the order must be delivered to the Registrar with the charge filing statement.

(6) This section does not apply to–

(a) a charge in favour of a landlord on a cash deposit given as a security in connection with the lease of land,

(b) a charge which is an international interest, as defined in Part 12 of the Insolvency Regulations 2015,

(c) a charge excluded from the application of this section by these Regulations, or any other law of the Abu Dhabi Global Market.

(7) In this Part–

"cash" includes foreign currency,

"charge" includes a mortgage, and

"effective date" means the date that this Chapter comes into force.

785. Charge in series of debentures

(1) This section applies where–

(a) a company creates a series of debentures containing a charge, or giving a charge by reference to another instrument, and

(b) debenture holders of that series are entitled to the benefit of the charge pari passu.

(2) The Registrar must register the charge if, before the end of the period allowed for delivery, the company or any person interested in the charge delivers to the Registrar for registration, a charge filing statement which also contains the following–

(a) either–

(i) the name of each of the trustees for the debenture holders, or

(ii) where there are more than four such persons, the names of any four persons listed in the charge instrument as trustees for the debenture holders, and a statement that there are other such persons,

(b) the dates of the resolutions authorising the issue of the series,

(c) the date of the covering instrument (if any) by which the series is created or defined.

(3) Where the charge is created or evidenced by an instrument, the Registrar is required to register it only if a certified copy of the instrument is delivered to the Registrar with the charge filing statement.

(4) Where the charge is not created or evidenced by an instrument, the Registrar is required to register it only if a certified copy of one of the debentures in the series is delivered to the Registrar with the charge filing statement.

(5) For the purposes of this section a charge filing statement is not required to contain the names of the debenture holders.

(6) "The period allowed for delivery" is–

(a) if there is a deed containing the charge, 21 days beginning with the day after the date on which the deed is executed,

(b) if there is no deed containing the charge, 21 days beginning with the day after the date on which the first debenture of the series is executed.

(7) Where an order is made under section 789(3) a copy of the order must be delivered to the Registrar with the charge filing statement.

(8) In this section "deed" means–

(a) a deed governed by the law of the Abu Dhabi Global Market, or

(b) an instrument governed by a law other than the law of the Abu Dhabi Global Market which requires delivery under that law in order to take effect.

786. Charges existing on property or undertaking acquired

(1) This section applies where a company acquires property or undertaking which is subject to a charge of a kind which would, if it had been created by the company after the acquisition of the property or undertaking, have been capable of being registered under section 784.

(2) The Registrar must register the charge if the company or any person interested in the charge delivers to the Registrar for registration a charge filing statement.

(3) Where the charge is created or evidenced by an instrument, the Registrar is required to register it only if a certified copy of the instrument is delivered to the Registrar with the charge filing statement.

787. Particulars to be delivered to Registrar

(1) A statement of particulars relating to a charge created by a company is a "charge filing statement" if it contains the following particulars–

(a) the registered name and number of the company,

(b) the date of creation of the charge and (if the charge is one to which section 788 applies) the date of acquisition of the property or undertaking concerned,

(c) where the charge is created or evidenced by an instrument, the particulars listed in subsection (2),

(d) where the charge is not created or evidenced by an instrument, the particulars listed in subsection (3).

(2) The particulars referred to in subsection (1)(c) are–

(a) any of the following–

(i) the name of each of the persons in whose favour the charge has been created or of the security agents or trustees holding the charge for the benefit of one or more persons, or

(ii) where there are more than four such persons, security agents or trustees, the names of any four such persons, security agents or trustees listed in the charge instrument, and a statement that there are other such persons, security agents or trustees,

(b) whether the instrument is expressed to contain a floating charge and, if so, whether (together with the charges referred to in subsections (2)(d) and (e)) it is expressed to cover the whole or substantially the whole of the property and undertaking of the company,

(c) whether any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge,

(d) whether (and if so, a short description of) any land, ship, aircraft or intellectual property that is registered or required to be registered in the Abu Dhabi Global Market, is subject to a charge (which is not a floating charge) included in the instrument,

(e) whether the instrument includes a charge (which is not expressed to be a floating charge) over any tangible or intangible property not described in subsection (2)(d).

(3) The particulars referred to in subsection (1)(d) are–

(a) a statement that there is no instrument creating or evidencing the charge,

(b) the names of each of the persons in whose favour the charge has been created or the names of any security agents or trustees holding the charge for the benefit of one or more persons,

(c) the nature of the charge,

(d) a short description of the property or undertaking charged,

(e) the obligations secured by the charge.

(4) In this section "intellectual property" includes–

(a) any patent, trade mark, registered design, copyright or design right,

(b) any licence under or in respect of any such right.

788. Date of creation of charge

(1) For the purposes of this Part, a charge of the type described in column 1 of the Table below is taken to be created on the date given in relation to it in column 2 of that Table.

1. Type of charge	*2. When charge created*
Charge created or evidenced by an instrument	If the instrument is a deed that has been executed and has immediate effect on execution and delivery, the date of delivery
	If the instrument is a deed that has been executed and held in escrow, the date of delivery into escrow
	If the instrument is a deed that has been executed and held as undelivered, the date of delivery
	If the instrument is not a deed and has immediate effect on execution, the date of execution
	If the instrument is not a deed and does not have immediate effect on execution, the date on which the instrument takes effect
Charge not created or evidenced by an instrument	The date on which the charge comes into effect.

(2) Where a charge is created or evidenced by an instrument made between two or more parties, references in the Table in subsection (1) to execution are to execution by all the parties to the instrument whose execution is essential for the instrument to take effect as a charge.

(3) This section applies for the purposes of this Chapter even if further forms, notices, registrations or other actions or proceedings are necessary to make the charge valid or effectual for any other purposes.

(4) For the purposes of this Chapter, the Registrar is entitled without further enquiry to accept a charge as created on the date given as the date of creation of the charge in a charge filing statement.

(5) In this section "deed" means–

(a) a deed governed by the law of the Abu Dhabi Global Market, or

(b) an instrument governed by a law other than the law of the Abu Dhabi Global Market which requires delivery under that law in order to take effect.

(6) References in this section to delivery, in relation to a deed, include delivery as a deed where required.

789. Extension of period allowed for delivery

(1) Subsection (3) applies if the Court is satisfied that–

(a) neither the company nor any other person interested in the charge has delivered to the Registrar the documents required under section 784 or (as the case may be) 785 before the end of the period allowed for delivery under the section concerned, and

(b) the requirement in subsection (2) is met.

(2) The requirement is–

(a) that the failure to deliver those documents–

(i) was accidental or due to inadvertence or to some other sufficient cause, or

(ii) is not of a nature to prejudice the position of creditors or shareholders of the company, or

(b) that on other grounds it is just and equitable to grant relief.

(3) The Court may, on the application of the company or a person interested, and on such terms and conditions as seem to the Court just and expedient, order that the period allowed for delivery be extended.

790. Personal information etc in certified copies

(1) The following are not required to be included in a certified copy of an instrument or debenture delivered to the Registrar for the purposes of any provision of this Chapter–

(a) personal information relating to an individual (other than the name of an individual),

(b) the number or other identifier of a bank or securities account of a company or individual,

(c) a signature.

(2) The Registrar is entitled without further enquiry, to accept the certified copy of an instrument whether or not any of the information in subsection (1) is contained within the instrument.

791. Consequence of failure to deliver charges

(1) This section applies if–

(a) a company creates a charge to which section 784 or 785 applies, and

(b) the documents required by section 784 or (as the case may be) 785 are not delivered to the Registrar by the company or another person interested in the charge before the end of the relevant period allowed for delivery.

(2) "The relevant period allowed for delivery" is–

(a) the period allowed for delivery under the section in question, or

(b) if an order under section 789(3) has been made, the period allowed by the order.

(3) Where this section applies, the charge is void (so far as any security on the company's property or undertaking is conferred by it) against–

(a) a liquidator of the company,

(b) an administrator of the company, and

(c) a creditor of the company.

(4) Subsection (3) is without prejudice to any contract or obligation for repayment of the money secured by the charge; and when a charge becomes void under this section, the money secured by it immediately becomes payable.

792. Entries on the register

(1) This section applies where a charge is registered in accordance with a provision of this Chapter.

(2) The Registrar must–

(a) allocate to the charge a unique reference code and place a note in the register recording that reference code, and

(b) include in the register any documents delivered under section 784(3) or (5), 785(3), (4) or (7), or 786(3).

(3) The Registrar must give a certificate of the registration of the charge to the person who delivered to the Registrar a charge filing statement relating to the charge.

(4) The certificate must state–

(a) the registered name and number of the company in respect of which the charge was registered, and

(b) the unique reference code allocated to the charge.

(5) The certificate must be signed by the Registrar or authenticated by the Registrar's official seal.

(6) In the case of registration under section 784 or 785, the certificate is conclusive evidence that the documents required by the section concerned were delivered to the Registrar before the end of the relevant period allowed for delivery.

(7) "The relevant period allowed for delivery" is–

(a) the period allowed for delivery under the section in question, or

(b) if an order under section 789(3) has been made, the period allowed by the order.

793. Registration of enforcement of security

(1) Subsection (2) applies where a person–

(a) obtains an order for the appointment of a receiver or manager of a company's property or undertaking, or

(b) appoints such a receiver or manager under powers contained in an instrument.

(2) The person must, within 14 days of the order or of the appointment under those powers–

(a) give notice to the Registrar of that fact, and

(b) if the order was obtained, or the appointment made, by virtue of a registered charge held by the person give the Registrar a notice containing–

(i) in the case of a charge created before the effective date, the information specified in subsection (4),

(ii) in the case of a charge created on or after the effective date, the unique reference code allocated to the charge.

(3) Where a person appointed receiver or manager of a company's property or undertaking under powers contained in an instrument ceases to act as such a receiver or manager, the person must, on so ceasing–

(a) give notice to the Registrar of that fact, and

(b) give the Registrar a notice containing–

(i) in the case of a charge created before the effective date, the information specified in subsection (4), or

(ii) in the case of a charge created on or after the effective date, the unique reference code allocated to the charge.

(4) The information referred to in subsections (2)(b)(i) and (3)(b)(i) is–

(a) the date of the creation of the charge,

(b) a description of the instrument (if any) creating or evidencing the charge,

(c) short particulars of the property or undertaking charged.

(5) The Registrar must include in the register–

(a) a fact of which notice is given under subsection (2)(a), and

(b) a fact of which notice is given under subsection (3)(a).

(6) A person who makes default in complying with the requirements of subsection (2) of this section commits a contravention of these Regulations.

(7) A person who commits a contravention referred to in subsection (6) is liable to a fine of up to level 4.

(8) A person who makes default in complying with the requirements of subsection (3) of this section commits a contravention of these Regulations.

(9) A person who commits a contravention referred to in subsection (8) is liable to a level 2 fine.

(10) This section applies only to a receiver or manager appointed–

(a) by a Court in the Abu Dhabi Global Market, or

(b) under an instrument governed by the law of the Abu Dhabi Global Market.

794. Entries of satisfaction and release

(1) Subsection (5) applies if the statement set out in subsection (2) and the particulars set out in subsection (4) are delivered to the Registrar with respect to a registered charge.

(2) The statement referred to in subsection (1) is a statement to the effect that–

(a) the debt for which the charge was given has been paid or satisfied in whole or in part, or

(b) all or part of the property or undertaking charged–

(i) has been released from the charge, or

(ii) has ceased to form part of the company's property or undertaking.

(3) Where a statement within subsection (2)(b) relates to part only of the property or undertaking charged, the statement must include a short description of that part.

(4) The particulars referred to in subsection (1) are–

(a) the name and address of the person delivering the statement and an indication of their interest in the charge,

(b) the registered name and number of the company that–

(i) created the charge (in a case within section 784 or 785), or

(ii) acquired the property or undertaking subject to the charge (in a case within section 786),

(c) in respect of a charge created before the effective date –

(i) the date of creation of the charge,

(ii) a description of the instrument (if any) by which the charge is created or evidenced,

(iii) short particulars of the property or undertaking charged,

(d) in respect of a charge created on or after the effective date, the unique reference code allocated to the charge.

(5) The Registrar must include in the register–

(a) a statement of satisfaction in whole or in part, or

(b) a statement of the fact that all or part of the property or undertaking has been released from the charge or has ceased to form part of the company's property or undertaking (as the case may be).

795. Rectification of register

(1) Subsection (3) applies if the Court is satisfied that–

(a) there has been an omission or mis-statement in any statement or notice delivered to the Registrar in accordance with this Chapter, and

(b) the requirement in subsection (2) is met.

(2) The requirement is that the Court is satisfied–

(a) that the omission or mis-statement–

(i) was accidental or due to inadvertence or to some other sufficient cause, or

(ii) is not of a nature to prejudice the position of creditors or shareholders of the company, or

(b) that on other grounds it is just and equitable to grant relief.

(3) The Court may, on the application of the company or a person interested, and on such terms and conditions as seem to the Court just and expedient, order that the omission or mis-statement be rectified.

(4) A copy of the Court's order must be sent by the applicant to the Registrar for registration.

796. Replacement of instrument or debenture

(1) Subsection (2) applies if the Court is satisfied that–

(a) a copy of an instrument or debenture delivered to the Registrar under this Chapter contains material which could have been omitted under section 790,

(b) the wrong instrument or debenture was delivered to the Registrar, or

(c) the copy was defective.

(2) The Court may, on the application of the company or a person interested, and on such terms and conditions as seem to the Court just and expedient, order that the copy of the instrument or debenture be removed from the register and replaced.

(3) A copy of the Court's order must be sent by the applicant to the Registrar for registration.

797. Companies to keep copies of instruments creating and amending charges

(1) A company must keep available for inspection a copy of every–

(a) instrument creating a charge capable of registration under this Chapter, and

(b) instrument effecting any variation or amendment of such a charge.

(2) In the case of a charge contained in a series of uniform debentures, a copy of one of the debentures of the series is sufficient for the purposes of subsection (1)(a).

(3) If the particulars referred to in section 787(1) or the particulars of the property or undertaking charged are not contained in the instrument creating the charge, but are instead contained in other documents which are referred to in or otherwise incorporated into the instrument, then the company must also keep available for inspection a copy of those other documents.

(4) It is sufficient for the purposes of subsection (1)(a) if the company keeps a copy of the instrument in the form delivered to the Registrar under section 784(3), 785(3) or (4) or 786(3).

(5) Where a translation has been delivered to the Registrar in accordance with Part 32, the company must keep available for inspection a copy of the translation.

798. Instruments creating charges to be available for inspection

(1) This section applies to documents required to be kept available for inspection under section 797 (copies of instruments creating and amending charges).

(2) The documents must be kept available for inspection–

(a) at the company's registered office, or

(b) at a place specified in rules made by the Board under section 996 (rules about where certain company records to be kept available for inspection).

(3) The company must give notice to the Registrar–

(a) of the place at which the documents are kept available for inspection, and

(b) of any change in that place,

unless they have at all times been kept at the company's registered office.

(4) The documents must be open to the inspection–

(a) of any creditor or member of the company, without charge, and

(b) of any other person, on payment of such fee as may be prescribed.

(5) A person who makes default in complying with the requirements of subsection (2) or (3) of this section commits a contravention of these Regulations.

(6) A person who commits the contravention referred to in subsection (5) is liable to a level 2 fine.

(7) If default is made for 14 days in complying with subsection (3) or an inspection required under subsection (4) is refused, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(8) A person who commits the contravention referred to in in subsection (7) is liable to a fine of up to level 4.

(9) If an inspection required under subsection (4) is refused the Court may by order compel an immediate inspection.

(10) Where the company and a person wishing to carry out an inspection under subsection (4) agree, the inspection may be carried out by electronic means.

799. Notice of matters disclosed on the register

A person taking a charge over a company's property shall be taken to have notice of another charge disclosed on the register at the time the charge is created.

Chapter 2

POWERS OF THE BOARD

800. Power to make provision for effect of registration in special register

(1) In this section a "special register" means a register, other than the register, in which a charge to which Chapter 1 applies is required or authorised to be registered.

(2) The Board may make rules which make provision for facilitating the making of information-sharing arrangements between the person responsible for maintaining a special register ("the responsible person") and the Registrar that meet the requirement in subsection (4).

"Information-sharing arrangements" are arrangements to share and make use of information held by the Registrar or by the responsible person.

(3) If the Board is satisfied that appropriate information-sharing arrangements have been made, it may make rules which provide that–

(a) the Registrar is authorised not to register a charge of a specified description under Chapter 1,

(b) a charge of a specified description that is registered in the special register within a specified period is to be treated as if it had been registered (and certified by the Registrar as registered) in accordance with the requirements of Chapter 1, and

(c) the other provisions of Chapter 1 apply to a charge so treated with specified modifications.

(4) The information-sharing arrangements must ensure that persons inspecting the register–

(a) are made aware, in a manner appropriate to the inspection, of the existence of charges in the special register which are treated in accordance with provision so made, and

(b) are able to obtain information from the special register about any such charge.

(5) Rules under this section may–

(a) modify any law or regulation applicable to the Abu Dhabi Global Market or rule of law which would otherwise restrict or prevent the responsible person from entering into or giving effect to information-sharing arrangements,

(b) authorise the responsible person to require information to be provided to him for the purposes of the arrangements,

(c) make provision about–

(i) the charging by the responsible person of fees in connection with the arrangements and the destination of such fees (including provision modifying any law or regulation applicable to the Abu Dhabi Global Market which would otherwise apply in relation to fees payable to the responsible person), and

(ii) the making of payments under the arrangements by the Registrar to the responsible person,

(d) require the Registrar to make copies of the arrangements available to the public (in hard copy or electronic form).

(6) In this section "specified" means specified in rules under this section.

(7) A description of charge may be specified, in particular, by reference to one or more of the following–

(a) the type of company by which it is created,

(b) the form of charge which it is,

(c) the description of assets over which it is granted,

(d) the length of the period between the date of its registration in the special register and the date of its creation.

(8) Provision may be made under this section relating to registers maintained under the law of a country or territory outside the Abu Dhabi Global Market.

Part 25

ARRANGEMENTS AND RECONSTRUCTIONS

801. Application of this Part

(1) The provisions of this Part apply where a compromise or arrangement is proposed between a company and–

(a) its creditors, or any class of them, or

(b) its members, or any class of them.

(2) In this Part–

"arrangement" includes a reorganisation of the company's share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods, and

"company", unless the context otherwise requires, means–

(a) in section 806 (powers of Court to facilitate reconstruction or amalgamation or merger or division):

(i) in the case of a compromise or arrangement falling within sections 806(1)(a) or 806(1)(c), a company formed or registered under these Regulations, and

(ii) in the case of a compromise or arrangement falling within section 806(1)(b), a company formed or registered under these Regulations and any non-ADGM company whose jurisdiction of incorporation permits such non-ADGM company to merge into a single company or body corporate or into a new company (or to become such a new company) as described in section 810(1)(a) or 810(1)(b), and

(b) elsewhere in this Part, any company liable to be wound up under the Insolvency Regulations 2015 and any non-ADGM company whose jurisdiction of incorporation permits such non-ADGM company to merge into a single company or body corporate or into a new company (or to become such a new company) as described in section 810(1)(a) or 810(1)(b).

(3) The provisions of this Part have effect subject to Part 26 (mergers and divisions) where that Part applies (see sections 808 and 809).

802. Court order for holding of meeting

(1) The Court may, on an application under this section, order a meeting of the creditors or class of creditors, or of the members of the company or class of members (as the case may be), to be summoned in such manner as the Court directs.

(2) An application under this section may be made by–

(a) the company,

(b) any creditor or member of the company,

(c) if the company is being wound up, the liquidator, or

(d) if the company is in administration, the administrator.

(3) Section 341 (representation of corporations at meetings) applies to a meeting of creditors under this section as to a meeting of the company (references to a member of the company being read as references to a creditor).

803. Statement to be circulated or made available

(1) Where a meeting is summoned under section 802–

(a) every notice summoning the meeting that is sent to a creditor or member must be accompanied by a statement complying with this section, and

(b) every notice summoning the meeting that is given by advertisement must either–

(i) include such a statement, or

(ii) state where and how creditors or members entitled to attend the meeting may obtain copies of such a statement.

(2) The statement must–

(a) explain the effect of the compromise or arrangement, and

(b) in particular, state–

(i) any material interests of the directors of the company (whether as directors or as members or as creditors of the company or otherwise), and

(ii) the effect on those interests of the compromise or arrangement, in so far as it is different from the effect on the like interests of other persons.

(3) Where the compromise or arrangement affects the rights of debenture holders of the company, the statement must give the like explanation as respects the trustees of any

deed for securing the issue of the debentures as it is required to give as respects the company's directors.

(4) Where a notice given by advertisement states that copies of an explanatory statement can be obtained by creditors or members entitled to attend the meeting, every such creditor or member is entitled, on making application in the manner indicated by the notice, to be provided by the company with a copy of the statement free of charge.

(5) If a company fails to comply with this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

This is subject to subsection (7) below.

(6) For this purpose the following are treated as officers of the company–

(a) a liquidator or administrator of the company, and

(b) a trustee of a deed for securing the issue of debentures of the company.

(7) A person does not contravene this section if he shows that the default was due to the refusal of a director or trustee for debenture holders to supply the necessary particulars of his interests.

(8) A person who commits the contravention referred to in subsection (5) shall be liable to a level 3 fine.

804. Duty of directors and trustees to provide information

(1) It is the duty of–

(a) any director of the company, and

(b) any trustee for its debenture holders,

to give notice to the company of such matters relating to himself as may be necessary for the purposes of section 803 (statement to be circulated or made available).

(2) Any person who makes default in complying with this section commits a contravention of these Regulations.

(3) A person who commits the contravention referred to in subsection (2) shall be liable to a fine of up to level 8.

805. Court sanction for compromise or arrangement

(1) If:

(a) 75% in value of the creditors or class of creditors or if members or class of members (as the case may be) representing 75% of the voting rights of the members or class of members (as the case may be), present and voting either in person or by proxy at the meeting summoned under section 802, agree a compromise or arrangement, and

(b) where the compromise or arrangement relates to a non-ADGM company (as defined in section 1028 (minor definitions: general)), the Court is satisfied that

the requirements of section 810(2) have been or are satisfied with respect to such company,

the Court may, on an application under this section, sanction the compromise or arrangement.

(2) An application under this section may be made by–

(a) the company,

(b) any creditor or member of the company,

(c) if the company is being wound up, the liquidator, or

(d) if the company is in administration, the administrator.

(3) A compromise or arrangement sanctioned by the Court is binding on–

(a) all creditors or the class of creditors or on the members or class of members (as the case may be), and

(b) the company or, in the case of a company in the course of being wound up, the liquidator and contributories of the company.

(4) The Court's order has no effect until a copy of it has been delivered to the Registrar.

(5) Section 341 (representation of corporations at meetings) applies to a meeting of creditors under this section as to a meeting of the company (references to a member of the company being read as references to a creditor).

806. Powers of Court to facilitate reconstruction or amalgamation or merger or division

(1) This section applies where application is made to the Court under section 805 to sanction a compromise or arrangement and it is shown that one or more of the following applies–

(a) the compromise or arrangement is proposed for the purposes of, or in connection with, a scheme:

(i) for the reconstruction of any company or companies, and

(ii) under which the whole or any part of the undertaking or the property of any company concerned in the scheme ("a transferor company") is to be transferred to another company ("the transferee company"),

(b) the compromise or arrangement is proposed for the purposes of, or in connection with, a scheme involving a merger or amalgamation under which two or more companies are to merge or amalgamate into a single company or body corporate or into a new company as described in section 810(1)(a) or 810(1)(b), or

(c) the compromise or arrangement is proposed for the purposes of, or in connection with, a scheme under which the undertaking, property and liabilities of a company are to be divided and transferred as mentioned in section 830(1).

(2) The Court may, either by the order sanctioning the compromise or arrangement or by a subsequent order, make provision for all or any of the following matters–

(a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any scheme transferor company,

or the merger of the two or more companies or the division of the company and its undertaking, property and liabilities,

(b) the issue or appropriation by the scheme transferee company or surviving company of any shares, debentures, policies or other like interests in that scheme transferee company or surviving company which under the compromise or arrangement are to be allotted or appropriated by that scheme transferee company or surviving company to or for any person,

(c) the continuation by or against the scheme transferee company or surviving company of any legal proceedings pending by or against any scheme transferor company on such terms as the Court may order,

(d) the dissolution, without winding up, of any scheme transferor company,

(e) the provision to be made for any persons who, within such time and in such manner as the Court directs, dissent from the compromise or arrangement,

(f) such incidental, consequential supplemental or any other matters as the Court may, in its discretion think fit or may consider necessary to secure that the reconstruction, amalgamation, merger or division is fully and effectively carried out.

(3) If an order under this section provides for the transfer of property or liabilities–

(a) the property is by virtue of the order transferred to, and vests in, the scheme transferee company, and

(b) the liabilities are, by virtue of the order, transferred to and become liabilities of that company.

(4) The property (if the order so directs) vests freed from any charge that is by virtue of the compromise or arrangement to cease to have effect.

(5) In this section–

"liabilities" includes duties and obligations,

"merging company" has the meaning set out in section 810(3),

"property" includes property, rights and powers of every description,

"scheme transferee company" means (i) a transferee company; and (ii) any existing company or new company in the case of a scheme involving a division as mentioned in section 830,

"scheme transferor company" means (i) a transferor company, and (ii) any company whose undertaking, property and liabilities are to be divided and transferred under Chapter 3 of Part 26,

"surviving company" has the meaning set out in section 810(3),

"transferee company" has the meaning given to it in subsection (1)(a)(ii), and

"transferor company" has the meaning given to it in subsection (1)(a)(ii).

(6) Every company in relation to which an order is made under this section must cause a copy of the order to be delivered to the Registrar within seven days after its making.

(7) If default is made in complying with subsection (6), a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(8) A person who commits the contravention referred to in subsection (7) is liable to a level 3 fine.

807. Obligations of company with respect to articles etc

(1) This section applies–

(a) to any order under section 805 (Court sanction for compromise or arrangement), and

(b) to any order under section 806 (powers of Court to facilitate reconstruction or amalgamation or merger or division) that alters the company's constitution.

(2) If the order amends–

(a) the company's articles, or

(b) any resolution or agreement to which Chapter 3 of Part 3 applies (resolution or agreement affecting a company's constitution),

the copy of the order delivered to the Registrar by the company under section 805(4) or section 806(6) must be accompanied by a copy of the company's articles, or the resolution or agreement in question, as amended.

(3) Every copy of the company's articles issued by the company after the order is made must be accompanied by a copy of the order, unless the effect of the order has been incorporated into the articles by amendment.

(4) In this section:

(a) references to the effect of the order include the effect of the compromise or arrangement to which the order relates;

(b) in the case of a company not having articles, references to its articles shall be read as references to the instrument constituting the company or defining its constitution.

(5) If a company defaults in complying with this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(6) A person who commits the contravention referred to in subsection (5) is liable to a level 3 fine.

Part 26

MERGERS AND DIVISIONS

Chapter 1

INTRODUCTORY

808. Application of this Part

(1) This Part applies where–

(a) a compromise or arrangement is proposed between a company and–

(i) its creditors or any class of them, or

(ii) its members or any class of them,

for the purposes of, or in connection with, a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies or any one or more companies and one or more bodies corporate,

(b) the scheme involves–

(i) a merger (as defined in section 810(1)), or

(ii) a division (as defined in section 830).

(2) In this Part, unless the context otherwise requires–

(a) a "company" includes companies formed or registered under these Regulations and any non-ADGM company whose jurisdiction of incorporation permits such non-ADGM company: (i) to merge, in the case of a merger by absorption, into a single company or body corporate or, in the case of a merger by consolidation, into a new company (or to become such a new company), or (ii) to participate in a scheme involving a division under Chapter 3 of this Part,

(b) an "existing company" means a company involved in a scheme to which this Part applies other than a new company, and

(c) a "new company" means a company formed–

(i) to be the surviving company for the purposes of a merger by consolidation (as defined in section 810(1)(b)), or

(ii) as a new company (as mentioned in section 830(1)) for the purposes of, or in connection with, a scheme involving a division under Chapter 3 of this Part.

(3) This Part does not apply where the company in respect of which the compromise or arrangement is proposed is being wound up.

809. Relationship of this Part to Part 25

(1) The Court must not sanction under Part 25 (arrangements and reconstructions) the compromise or arrangement which relates to the relevant merger or division under this Part 26 unless the relevant requirements of this Part have been complied with.

(2) The relevant requirements applicable to a merger are specified in sections 810(2) and 811 to 823.

Certain of those requirements, and certain general requirements of Part 25, are modified or excluded by the provisions of sections 824 to 829.

(3) The relevant requirements applicable to a division are specified in sections 831 to 843.

Certain of those requirements, and certain general requirements of Part 25, are modified or excluded by the provisions of sections 844 to 848.

Chapter 2

MERGER

810. Mergers and merging companies

(1) The scheme involves a merger where under the scheme–

(a) any two or more companies merge into a single company which is an existing company (a "merger by absorption"), or

(b) any two or more companies amalgamate into a new company (a "merger by consolidation"),

and at least one of the constituent companies participating in the merger is a company formed or incorporated under these Regulations.

(2) Where one or more of the constituent companies participating in a merger is a non-ADGM company, a merger under this Part 26 shall not be approved unless:

(a) the non-ADGM company has obtained all necessary authorisations, if any, required under the laws of the jurisdiction in which it is incorporated or is presently registered in order to consummate a merger under this Part 26 and filed with the Registrar documentary proof of such authorisation,

(b) the jurisdiction in which the non-ADGM company is incorporated or is presently registered is:

(i) an appointed jurisdiction, or

(ii) approved by the Board, upon application by the non-ADGM company for the purpose of consummating a merger under this Part 26,

(c) not more than three months prior to the effective date of the merger the non-ADGM company shall advertise in a national newspaper in the jurisdiction in which it is incorporated or presently registered its intention to consummate a merger under this Part 26, and

(d) a statement of the solvency of the surviving company made in accordance with section 584 (solvency statement) shall have been made not more than 15 days

before the beginning of the period specified in subsection (2)(c) and on the basis that the scheme as proposed has been sanctioned by the Court.

(3) References in this Part to

(a) "the constituent companies" is to both the merging companies and the surviving company,

(b) "the merging companies" are–

(i) in relation to a merger by absorption, to the companies participating in the merger by absorption,

(ii) in relation to a merger by consolidation, to the companies other than the new company, and

(c) "the surviving company" is to the merging company remaining following consummation of a merger by absorption or to the new company into which the merging companies amalgamate in a merger by consolidation.

811. Draft terms of scheme (merger)

(1) A draft of the proposed terms of the scheme must be drawn up and adopted by the directors or equivalent office holders of the merging companies.

(2) The draft terms must give particulars of at least the following matters–

(a) in respect of each constituent company–

(i) its name, and

(ii) the address of its registered office,

(b) the cash, non-cash assets (including shares or other securities) in any body corporate which the holders of shares in the merging companies are to receive,

(c) in the case of any non-cash asset mentioned in (b) above, the value to be attributed to such assets or, in the case of any consideration that comprises shares or other securities, the securities exchange ratio, for the purposes of the relevant merger,

(d) the terms relating to the issue of shares, if any, in the surviving company,

(e) any rights or restrictions attaching to shares or other securities in any body corporate to be issued under the scheme to the holders of shares or other securities in a merging company to which any special rights or restrictions attach, or the measures proposed concerning them,

(f) any amount of benefit paid or given or intended to be paid or given–

(i) to any of the experts referred to in section 816 (expert's report), or

(ii) to any director of a constituent company,

and the consideration for the payment of benefit.

(3) The requirements in subsection (2)(b) to 2(e) are subject to section 824 (circumstances in which certain particulars not required).

812. Publication of draft terms by Registrar (merger)

(1) The directors or equivalent office holders of each of the merging companies must deliver a copy of the draft terms to the Registrar.

(2) The Registrar must publish on the Registrar's website notice of receipt from that merging company of a copy of the draft terms.

(3) That notice must be published at least one month before the date of any meeting of that merging company summoned for the purpose of approving the scheme.

(4) The requirements in this section are subject to section 813 (publication of draft terms on merging company's website).

813. Publication of draft terms on company website (merger)

Section 812(2) and 812(3) do not apply in respect of a merging company if the conditions in subsections (1) to (5) are met.

(1) The first condition is that the draft terms are made available on a website which–

(a) is maintained by or on behalf of the merging company, and

(b) identifies the merging company.

(2) The second condition is that neither access to the draft terms on the website nor the supply of a hard copy of them from the website is conditional on payment of a fee or otherwise restricted.

(3) The third condition is that the directors or equivalent office holders of the merging company deliver to the Registrar a notice giving details of the website.

(4) The fourth condition is that the Registrar or, in the case of a merging company that is a non-ADGM company, the merging company publishes the notice in on its website at least one month before the date of any meeting of the merging company summoned for the purpose of approving the scheme.

(5) The fifth condition is that the draft terms remain available on the website throughout the period beginning one month before, and ending on, the date of any such meeting.

814. Approval of members of merging companies

(1) The scheme must be approved by members of each class of each of the merging companies representing 75% of the voting rights of the class of members, present and voting either in person or by proxy at a meeting.

(2) This requirement is subject to sections 826, 827 and 828 (circumstances in which meetings of members not required).

815. Directors' or equivalent office holders' explanatory report (merger)

(1) The directors or equivalent office holders of each of the merging companies must draw up and adopt a report.

(2) The report must consist of–

(a) the statement required by section 803 (statement to be circulated or made available), and

(b) insofar as that statement does not deal with the following matters, a further statement–

(i) setting out the legal and economic grounds for the draft terms and, where the holders of shares in the merging companies are to receive shares or other securities in any body corporate, the number of shares or other securities to be issued ("the share exchange ratio"), and

(ii) specifying any special valuation difficulties.

(3) The requirement in this section is subject to section 824 (circumstances in which certain particulars and reports not required), section 825 (other circumstances in which reports and inspection not required) and section 829 (agreement to dispense with reports etc.).

816. Expert's report (merger)

(1) Where the holders of shares in the merging companies are offered consideration that includes a non-cash asset, an expert's report must be drawn up on behalf of each of the merging companies.

(2) The report required is a written report on the draft terms to the members of the merging company.

(3) The Court may on the joint application of all the merging companies approve the appointment of a joint expert to draw up a single report on behalf of all those merging companies.

If no such appointment is made, there must be a separate expert's report to the members of each merging company drawn up by a separate expert appointed on behalf of that merging company.

(4) The expert must be a person who–

(a) is eligible for appointment as an auditor, and

(b) meets the independence requirement in section 850.

(5) The expert's report must–

(a) indicate the method or methods used to value the non-cash asset or securities exchange ratio offered,

(b) give an opinion as to whether the method or methods used are reasonable in all the circumstances of the case, indicate the values arrived at using each such method and (if there is more than one method) give an opinion on the relative importance attributed to such methods in arriving at the value decided on,

(c) describe any special valuation difficulties that have arisen,

(d) state whether in the expert's opinion the valuation of the non-cash asset or, as the case may be, securities exchange ratio, is reasonable, and

(e) in the case of an expert valuation made by a person other than himself (see section 849), state that it appeared to him reasonable to arrange for it to be so made or to accept a valuation so made.

(6) The expert (or each of them) has–

(a) the right of access to all such documents of all the merging companies, and

(b) the right to require from the merging companies' officers all such information,

as he thinks necessary for the purposes of making his report.

(7) The requirement in this section is subject to section 824 (circumstances in which certain particulars and reports not required), section 825 (other circumstances in which reports and inspection not required) and section 829 (agreement to dispense with expert's report)

817. Supplementary accounting statement (merger)

(1) this section applies if the last annual accounts of any of the merging companies relate to a financial year ending before–

(a) the date seven months before the first meeting of the merging company summoned for the purposes of approving the scheme, or

(b) if no meeting of the merging company is required (by virtue of any of sections 826 to 828), the date six months before the directors or equivalent office holders of the merging company adopt the draft terms of the scheme.

(2) If the merging company has not made public a half-yearly financial report relating to a period ending on or after the date mentioned in subsection (1), the directors or equivalent office holders of the merging company must prepare a supplementary accounting statement.

(3) That statement must consist of–

(a) a balance sheet dealing with the state of affairs of the merging company as at a date not more than three months before the draft terms were adopted by the directors or equivalent office holders, and

(b) where the merging company would be required under section 389 (duty to prepare group accounts) to prepare group accounts if that date were the last day of a financial year, a consolidated balance sheet dealing with the state of affairs of the merging company and the undertakings that would be included in such a consolidation.

(4) The requirements of these Regulations as to the balance sheet forming part of a company's annual accounts, and the matters to be included in notes to it, apply to the balance sheet required for an accounting statement under this section, with such modifications:

(a) as are necessary by reason of its being prepared otherwise than as at the last day of a financial year, and

(b) in the case of a non-ADGM company, as may be prescribed in any rules made by the Board.

(5) The provisions of section 399 (approval and signing of accounts) as to the approval and signing of accounts apply to the balance sheet required for an accounting statement of a company that is not a non-ADGM company under this section.

(6) In this section–

"annual accounts" has the meaning given to that term by section 444(1) (meaning of "annual accounts") in the case of a company formed or registered under these Regulations and, in the case of a non-ADGM company, has such meaning as may be prescribed by rules made by the Board for the purposes of this Part, and

"half-yearly financial report" means a report of that description required to be made public by any rules or regulations applicable in the Abu Dhabi Global Market to listed companies or, in the case of a non-ADGM company, as may be prescribed by rules made by Board for the purposes of this Part.

(7) The requirement in this section is subject to section 825 (other circumstances in which reports and inspection not required) and section 829 (agreement to dispense with reports etc).

818. Inspection of documents (merger)

(1) The members of each of the merging companies must be able, during the period specified below–

(a) to inspect at the registered office or, in the case of a non-ADGM company, its equivalent or principal office, of that merging company copies of the documents listed below relating to that merging company and every other merging company, and

(b) to obtain copies of those documents or any part of them on request free of charge.

(2) The period referred to above is the period–

(a) beginning one month before, and

(b) ending on the date of,

the first meeting of the members, or any class of members, of the merging company for the purposes of approving the scheme.

(3) The documents referred to above are–

(a) the draft terms,

(b) the directors' or equivalent office holders' explanatory report,

(c) any statement required by subsection 810(2)(d),

(d) the expert's report,

(e) the merging company's annual accounts and reports for the last three financial years ending on or before the first meeting of the members, or any class of members, of the merging company summoned for the purposes of approving the scheme,

(f) any supplementary accounting statement required by section 817,

(g) if no statement is required by section 817 because the merging company has made public a recent half-yearly financial report (see subsection 817(2) of that section), that report,

(h) if a merging company is a non-ADGM company, a statement of all necessary authorisations, if any, required under the laws of the jurisdiction in which it is

incorporated or is presently registered in order to consummate a merger under this Part 26 and documentary proof that such authorisations have been obtained.

(4) The requirement in subsection (1)(a) is subject to section 819 (publication of documents on merging company website).

(5) The requirements of subsection (3)(b) and (3)(c) are subject to section 824 (circumstances in which certain particulars and reports not required) and section 829 (agreement to dispense with reports etc).

(6) Section 1005 (right to hard copy version) does not apply to a document sent or supplied in accordance with subsection (1)(b) to a member who has consented to information being sent or supplied by the merging company by electronic means and has not revoked that consent.

(7) Part 4 of Schedule 5 (communications by means of a website) does not apply for the purposes of subsection (1)(b) (but see section 819(4)).

(8) The requirements in this section are subject to section 825 (other circumstances in which reports and inspection not required).

819. Publication of documents on merging company website (merger)

Section 818(1)(a) does not apply to a document if the conditions in subsections (1) to (3) are met in relation to that document.

This is subject to subsection (5).

(1) The first condition is that the document is made available on a website which–

(a) is maintained by or on behalf of the merging company, and

(b) identifies the merging company.

(2) The second condition is that access to the document on the website is not conditional on payment of a fee or otherwise restricted.

(3) The third condition is that the document remains available on the website throughout the period beginning one month before, and ending on, the date of any meeting of the merging company summoned for the purpose of approving the scheme.

(4) A person is able to obtain a copy of a document as required by section 818(1)(b) if–

(a) the conditions in subsections (1) and (2) are met in relation to that document, and

(b) the person is able, throughout the period specified in subsection (3)–

(i) to retain a copy of the document as made available on the website, and

(ii) to produce a hard copy of it.

(5) Where members of a merging company are able to obtain copies of a document only as mentioned in subsection (4), section 818(1)(a) applies to that document even if the conditions in subsections (1) to (3) are met.

820. Report on material changes of assets of merging companies

The directors or equivalent office holders of each of the merging companies must report–

(a) to every meeting of the members, or any class of members, of that merging company summoned for the purpose of agreeing to the scheme, and

(b) to the directors or equivalent office holders of every other merging company,

any material changes in the property and liabilities of that merging company between the date when the draft terms were adopted and the date of the meeting in question.

(2) The directors or equivalent office holders of each of the other merging companies must in turn–

(a) report those matters to every meeting of the members, or any class of members, of that merging company summoned for the purpose of agreeing to the scheme, or

(b) send a report of those matters to every member entitled to receive notice of such a meeting.

(3) The requirement in this section is subject to section 825 (other circumstances in which reports and inspection not required) and section 829 (agreement to dispense with reports etc).

821. Approval of articles of the surviving company (merger by consolidation)

In the case of a merger by consolidation, the articles of the surviving company, or a draft of them, must be approved by ordinary resolution of each of the merging companies.

822. Protection of holders of securities to which special rights attached (merger)

(1) The scheme must provide that where any securities of a merging company (other than shares) to which special rights are attached are held by a person otherwise than as a member or creditor of the company, that person is to receive rights in the surviving company of equivalent value.

(2) Subsection (1) does not apply if–

(a) the holder has agreed otherwise, or

(b) the holder is, or under the scheme is to be, entitled to have the securities purchased by the surviving company on terms that the Court considers reasonable.

823. No issue of shares to merging companies or surviving company (merger)

The scheme must not provide for any shares in the surviving company to be issued to–

(a) a merging company (or its nominee) in respect of shares in the merging company held by the merging company itself (or its nominee), or

(b) the surviving company (or its nominee) in respect of shares in a merging company held by the surviving company (or its nominee).

824. Circumstances in which certain particulars and reports not required (merger)

(1) This section applies in the case of a merger by absorption where all of the relevant securities of the merging company (or, if there is more than one merging company, of each of them) other than the surviving company are held by or on behalf of the surviving company.

(2) The draft terms of the scheme need not give the particulars mentioned in section 811(2)(b), to 811(2)(e) (particulars relating to allotment of shares to members of merging company).

(3) Section 803 (statement to be circulated or made available) does not apply.

(4) The requirements of the following sections do not apply–

(a) section 815 (directors' or equivalent office holders' explanatory report),

(b) section 816 (expert's report).

(5) The requirements of section 818 (inspection of documents) so far as relating to any document required to be drawn up under the provisions mentioned in subsection (4) above do not apply.

(6) In this section "relevant securities", in relation to a merging company, means shares or other securities carrying the right to vote at general meetings of the merging company.

825. Other circumstances in which reports and inspection not required (merger)

This section applies in the case of a merger by absorption where 90% or more (but not all) of the relevant securities of the merging company (or, if there is more than one transferor company, of each of them) which is not the surviving company are held by or on behalf of the surviving company.

(1) If the conditions in subsections (2) and (3) are met, the requirements of the following sections do not apply–

(a) subsection 810(2)(d) (directors' solvency statement),

(b) section 815 (directors' or equivalent office holders' explanatory report),

(c) section 816 (expert's report),

(d) section 817 (supplementary accounting statement),

(e) section 818 (inspection of documents), and

(f) section 820 (report on material changes of assets of merging company).

(2) The first condition is that the scheme provides that every other holder of relevant securities has the right to require the surviving company to acquire those securities.

(3) The second condition is that, if a holder of securities exercises that right, the consideration to be given for those securities is fair and reasonable.

(4) The powers of the Court under section 806(2) (power of Court to facilitate reconstruction or amalgamation or merger or division) include the power to determine,

or make provision for the determination of, the consideration to be given for securities acquired under this section.

(5) In this section–

"other holder" means a person who holds securities of the merging company which is not the surviving company otherwise than on behalf of the surviving company (and does not include the surviving company itself),

"relevant securities", in relation to a merging company, means shares or other securities carrying the right to vote at general meetings of the merging company.

826. Circumstances in which meeting of members of surviving company not required (merger)

(1) This section applies in the case of a merger by absorption where 90% or more (but not all) of the relevant securities of the merging company (or, if there is more than one merging company, of each of them) other than the surviving company are held by or on behalf of the surviving company.

(2) It is not necessary for the scheme to be approved at a meeting of the members, or any class of members, of the surviving company if the Court is satisfied that the following conditions have been complied with.

(3) The first condition is that either subsection (4) or subsection (5) is satisfied.

(4) This subsection is satisfied if publication of notice of receipt of the draft terms by the Registrar took place in respect of the surviving company at least one month before the date of the first meeting of members, or any class of members, of the merging company which is not the surviving company summoned for the purpose of agreeing to the scheme.

(5) This subsection is satisfied if–

(a) the conditions in section 813(1) to 813(3) are met in respect of the surviving company,

(b) the Registrar published the notice mentioned in subsection 813(3) of that section on his website at least one month before the date of the first meeting of members, or any class of members, of the merging company which is not the surviving company summoned for the purpose of agreeing to the scheme, and

(c) the draft terms remained available on the website throughout the period beginning one month before, and ending on, that date.

(6) The second condition is that subsection (7) or (8) is satisfied for each of the documents listed in the applicable subsections 818(3)(a) to 818(3)(g) relating to the surviving company and the merging company (or, if there is more than one merging company, each of them) which is not the surviving company.

(7) This subsection is satisfied for a document if the members of the surviving company were able during the period beginning one month before, and ending on, the date mentioned in subsection (4) to inspect that document at the registered office of that surviving company.

(8) This subsection is satisfied for a document if–

(a) the document is made available on a website which is maintained by or on behalf of the surviving company and identifies the surviving company,

(b) access to the document on the website is not conditional on the payment of a fee or otherwise restricted, and

(c) the document remains available on the website throughout the period beginning one month before, and ending on, the date mentioned in subsection (4).

(9) The third condition is that the members of the surviving company were able to obtain copies of the documents mentioned in subsection (6), or any part of those documents, on request and free of charge, throughout the period beginning one month before, and ending on, the date mentioned in subsection (4).

(10) For the purposes of subsection (9)–

section 819(4) applies as it applies for the purposes of section 818(1)(b), and

(a) Part 4 of Schedule 5 (communications by means of a website) does not apply.

(11) The fourth condition is that–

(a) one or more members of the surviving company, who together held not less than 5% of the voting rights of the members of the surviving company entitled to vote at general meetings of the surviving company (excluding any shares in the surviving company held as treasury shares) would have been able, during that period, to require a meeting of each class of members to be called for the purpose of deciding whether or not to agree to the scheme, and

(b) no such requirement was made.

(12) In this section "relevant securities", in relation to a merging company, means shares or other securities carrying the right to vote at general meetings of the merging company.

827. Circumstances in which no meetings required (merger)

(1) This section applies in the case of a merger by absorption where all of the relevant securities of the merging company (or, if there is more than one merging company, of each of them) which is not the surviving company are held by or on behalf of the surviving company.

(2) It is not necessary for the scheme to be approved at a meeting of the members, or any class of members, of any of the merging companies if the Court is satisfied that the following conditions have been complied with.

(3) The first condition is that either subsection (4) or subsection (5) is satisfied.

(4) This subsection is satisfied if publication of notice of receipt of the draft terms by the Registrar took place in respect of all the merging companies at least one month before the date of the Court's order.

(5) This subsection is satisfied if–

(a) the conditions in section 813(1) to 813(3) are met in respect of each of the merging companies,

(b) in each case, the Registrar published the notice mentioned in subsection 813(3) of that section on the Registrar's website least one month before the date of the Court's order, and

(c) the draft terms remained available on the website throughout the period beginning one month before, and ending on, that date.

(6) The second condition is that subsection (7) or (8) is satisfied for each of the documents listed in the applicable subsections 818(3)(a) to 818(3)(g) relating to the surviving company and the merging company (or, if there is more than one merging company, each of them) which is not the surviving company.

(7) This subsection is satisfied for a document if the members of the surviving company were able during the period beginning one month before, and ending on, the date mentioned in subsection (4) to inspect that document at the registered office of that merging company.

(8) This subsection is satisfied for a document if–

(a) the document is made available on a website which is maintained by or on behalf of the surviving company and identifies the surviving company,

(b) access to the document on the website is not conditional on the payment of a fee or otherwise restricted, and

(c) the document remains available on the website throughout the period beginning one month before, and ending on, the date mentioned in subsection (4).

(9) The third condition is that the members of the surviving company were able to obtain copies of the documents mentioned in subsection (6), or any part of those documents, on request and free of charge, throughout the period beginning one month before, and ending on, the date mentioned in subsection (4).

(10) For the purposes of subsection (9)–

(a) section 819(4) applies as it applies for the purposes of section 818(1)(b), and

(b) Part 4 of Schedule 5 (communications by means of a website) does not apply.

(11) The fourth condition is that–

(a) one or more members of the surviving company, who together held not less than 5% of the voting rights of the members of the surviving company entitled to vote at general meetings of the surviving company (excluding any shares in the surviving company held as treasury shares) would have been able, during that period, to require a meeting of each class of members to be called for the purpose of deciding whether or not to agree to the scheme, and

(b) no such requirement was made.

(12) In this section "relevant securities", in relation to a merging company, means shares or other securities carrying the right to vote at general meetings of the merging company.

828. Other circumstances in which meeting of members of surviving company not required (merger)

(1) In the case of any merger by absorption, it is not necessary for the scheme to be approved by the members of the surviving company if the Court is satisfied that the following conditions have been complied with.

(2) The first condition is that either subsection (3) or subsection (4) is satisfied.

(3) This subsection is satisfied if publication of notice of receipt of the draft terms by the Registrar took place in respect of the surviving company at least one month before the date of the first meeting of members, or any class of members, of the merging company (or, if there is more than one merging company, any of them) which is not the surviving company summoned for the purposes of agreeing to the scheme.

(4) This subsection is satisfied if–

(a) the conditions in section 813(1) to 813(3) are met in respect of the surviving company,

(b) the Registrar published the notice mentioned in subsection 813(3) of that section on his website at least one month before the date of the first meeting of members, or any class of members, of the merging company (or, if there is more than one merging company, any of them) which is not the surviving company summoned for the purposes of agreeing to the scheme, and

(c) the draft terms remained available on the website throughout the period beginning one month before, and ending on, that date.

(5) The second condition is that subsection (6) or (7) is satisfied for each of the documents listed in the applicable subsection 818(3) relating to the surviving company and the merging company (or, if there is more than one merging company, each of them) which is not the surviving company.

(6) This subsection is satisfied for a document if the members of the surviving company were able during the period beginning one month before, and ending on, the date of any such meeting as is mentioned in subsection (3) to inspect that document at the registered office of that surviving company.

(7) This subsection is satisfied for a document if–

(a) the document is made available on a website which is maintained by or on behalf of the surviving company and identifies the surviving company,

(b) access to the document on the website is not conditional on the payment of a fee or otherwise restricted, and

(c) the document remains available on the website throughout the period beginning one month before, and ending on, the date of any such meeting as is mentioned in subsection (3).

(8) The third condition is that the members of the surviving company were able to obtain copies of the documents mentioned in subsection (5), or any part of those documents, on request and free of charge, throughout the period beginning one month before, and ending on, the date of any such meeting as is mentioned in subsection (3).

(9) For the purposes of subsection (8) –

section 819(4) applies as it applies for the purposes of section 818(1)(b), and

(a) Part 4 of Schedule 5 (communications by means of a website) does not apply.

(10) The fourth condition is that–

(a) one or more members of that surviving company, who together held not less than 5% of the voting rights of the members of the surviving company entitled to vote at general meetings of the surviving company (excluding any shares in the surviving company held as treasury shares) would have been able, during

that period, to require a meeting of each class of members to be called for the purpose of deciding whether or not to agree to the scheme, and

(b) no such requirement was made.

829. Agreement to dispense with reports etc (merger)

If all members holding shares in, and all persons holding other securities of, the merging companies, being shares or securities that carry a right to vote in general meetings of the merging company in question, so agree, the following requirements do not apply .

(1) The requirements that may be dispensed with under this section are–

(a) the requirements of–

(i) section 815 (directors' or equivalent office holders' explanatory report),

(ii) section 816 (expert's report),

(iii) section 817 (supplementary accounting statement), and

(iv) section 820 (report on material changes of assets of merging company), and

(b) the requirements of section 818 (inspection of documents) so far as relating to any document required to be drawn up under sections 815, 816 or 817.

(2) For the purposes of this section–

(a) the members, or holders of other securities, of a merging company, and

(b) whether shares or other securities carry a right to vote in general meetings of the merging company,

are determined as at the date of the application to the Court under section 802.

Chapter 3

DIVISION

830. Divisions and companies involved in a division

(1) The scheme involves a division where under the scheme the undertaking, property and liabilities of a company formed or registered under these Regulations and in respect of which the compromise or arrangement is proposed are to be divided among and transferred to two or more companies each of which is either–

(a) an existing company, or

(b) a new company.

(2) References in this Part to the companies involved in the division are to the transferor company and any existing transferee companies.

831. Draft terms of scheme (division)

(1) A draft of the proposed terms of the scheme must be drawn up and adopted by the directors of each of the companies involved in the division.

(2) The draft terms must give particulars of at least the following matters–

(a) in respect of the transferor company and each transferee company–

(i) its name,

(ii) the address of its registered office, and

(iii) whether it is a company limited by shares or a company limited by guarantee and having a share capital,

(b) the number of shares in a transferee company to be allotted to members of the transferor company for a given number of their shares (the "share exchange ratio") and the amount of any cash payment,

(c) the terms relating to the allotment of shares in a transferee company,

(d) the date from which the holding of shares in a transferee company will entitle the holders to participate in profits, and any special conditions affecting that entitlement,

(e) the date from which the transactions of the transferor company are to be treated for accounting purposes as being those of a transferee company,

(f) any rights or restrictions attaching to shares or other securities in a transferee company to be allotted under the scheme to the holders of shares or other securities in the transferor company to which any special rights or restrictions attach, or the measures proposed concerning them,

(g) any amount of benefit paid or given or intended to be paid or given–

(i) to any of the experts referred to in section 836 (expert's report), or

(ii) to any director of a company involved in the division,

and the consideration for the payment of benefit.

(3) The draft terms must also–

(a) give particulars of the property and liabilities to be transferred (to the extent that these are known to the transferor company) and their allocation among the transferee companies,

(b) make provision for the allocation among and transfer to the transferee companies of any other property and liabilities that the transferor company has acquired or may subsequently acquire, and

(c) specify the allocation to members of the transferor company of shares in the transferee companies and the criteria upon which that allocation is based.

832. Publication of draft terms by Registrar (division)

(1) The directors of each company involved in the division must deliver a copy of the draft terms to the Registrar.

(2) The Registrar must publish on the registar's website notice of receipt from that company of a copy of the draft terms.

(3) That notice must be published at least one month before the date of any meeting of that company summoned for the purposes of approving the scheme.

(4) The requirements in this section are subject to section 833 (publication of draft terms on company website) and section 848 (power of Court to exclude certain requirements).

833. Publication of draft terms on company website (division)

Section 832 does not apply in respect of a company if the conditions in subsections (1) to (5) are met.

(1) The first condition is that the draft terms are made available on a website which–

(a) is maintained by or on behalf of the company, and

(b) identifies the company.

(2) The second condition is that neither access to the draft terms on the website nor the supply of a hard copy of them from the website is conditional on payment of a fee or otherwise restricted.

(3) The third condition is that the directors of the company deliver to the Registrar a notice giving details of the website.

(4) The fourth condition is that the Registrar publishes the notice on his website at least one month before the date of any meeting of the company summoned for the purpose of approving the scheme.

(5) The fifth condition is that the draft terms remain available on the website throughout the period beginning one month before, and ending on, the date of any such meeting.

834. Approval of members of companies involved in the division

(1) The scheme must be approved by members of each class of the companies involved in the division representing 75% of the voting rights of the class of members, present and voting either in person or by proxy at a meeting.

(2) This requirement is subject to sections 844 and 845 (circumstances in which meeting of members not required).

835. Directors' explanatory report (division)

(1) The directors of the transferor and each existing transferee company must draw up and adopt a report.

(2) The report must consist of–

(a) the statement required by section 803 (statement to be circulated or made available), and

(b) insofar as that statement does not deal with the following matters, a further statement–

(i) setting out the legal and economic grounds for the draft terms, and in particular for the share exchange ratio and for the criteria on which the allocation to the members of the transferor company of shares in the transferee companies was based, and

(ii) specifying any special valuation difficulties.

(3) The report must also state–

(a) whether a report has been made to any transferee company under section 550 (valuation of non-cash consideration for shares), and

(b) if so, whether that report has been delivered to the Registrar of companies.

(4) The requirement in this section is subject to section 846 (agreement to dispense with reports etc) and section 847 (certain requirements excluded where shareholders given proportional rights).

836. Expert's report (division)

(1) An expert's report must be drawn up on behalf of each of each company involved in the division.

(2) The report required is a written report on the draft terms to the members of the company.

(3) The Court may on the joint application of the companies involved in the division approve the appointment of a joint expert to draw up a single report on behalf of all those companies.

If no such appointment is made, there must be a separate expert's report to the members of each company involved in the division drawn up by a separate expert appointed on behalf of that company.

(4) The expert must be a person who–

(a) is eligible for appointment as an auditor, and

(b) meets the independence requirement in section 850.

(5) The expert's report must–

(a) indicate the method or methods used to arrive at the share exchange ratio,

(b) give an opinion as to whether the method or methods used are reasonable in all the circumstances of the case, indicate the values arrived at using each such method and (if there is more than one method) give an opinion on the relative importance attributed to such methods in arriving at the value decided on,

(c) describe any special valuation difficulties that have arisen,

(d) state whether in the expert's opinion the share exchange ratio is reasonable, and

(e) in the case of an expert valuation made by a person other than himself (see section 849), state that it appeared to him reasonable to arrange for it to be so made or to accept a valuation so made.

(6) The expert (or each of them) has–

(a) the right of access to all such documents of the companies involved in the division, and

(b) the right to require from the companies' officers all such information,

as he thinks necessary for the purposes of making his report.

(7) The requirement in this section is subject to section 846 (agreement to dispense with reports etc) and section 847 (certain requirements excluded where shareholders given proportional rights).

837. Supplementary accounting statement (division)

(1) This section applies if the last annual accounts of a company involved in the division relate to a financial year ending before–

(a) the date seven months before the first meeting of the company summoned for the purposes of approving the scheme, or

(b) if no meeting of the company is required (by virtue of section 844 or 845), the date six months before the directors of the company adopt the draft terms of the scheme.

(2) If the company has not made public a half-yearly financial report relating to a period ending on or after the date mentioned in subsection (1), the directors of the company must prepare a supplementary accounting statement.

(3) That statement must consist of–

(a) a balance sheet dealing with the state of affairs of the company as at a date not more than three months before the draft terms were adopted by the directors, and

(b) where the company would be required under section 389 (duty to prepare group accounts) to prepare group accounts if that date were the last day of a financial year, a consolidated balance sheet dealing with the state of affairs of the company and the undertakings that would be included in such a consolidation.

(4) The requirements of these Regulations as to the balance sheet forming part of a company's annual accounts, and the matters to be included in notes to it, apply to the balance sheet required for an accounting statement under this section, with such modifications as are necessary by reason of its being prepared otherwise than as at the last day of a financial year.

(5) The provisions of section 399 (approval and signing of accounts) as to the approval and signing of accounts apply to the balance sheet required for an accounting statement under this section.

In this section "half-yearly financial report" means a report of that description required to be made public by any rules or regulations applicable in the Abu Dhabi Global Market to listed companies or, in the case of a non-ADGM company, as may be prescribed by rules made by Board for the purposes of this Part.

(6) The requirement in this section is subject to section 846 (agreement to dispense with reports etc) and section 847 (certain requirements excluded where shareholders given proportional rights).

838. Inspection of documents (division)

(1) The members of each company involved in the division must be able, during the period specified below–

(a) to inspect at the registered office of that company copies of the documents listed below relating to that company and every other company involved in the division, and

(b) to obtain copies of those documents or any part of them on request free of charge.

(2) The period referred to above is the period–

(a) beginning one month before, and

(b) ending on the date of,

the first meeting of the members, or any class of members, of the company for the purposes of approving the scheme.

(3) The documents referred to above are–

(a) the draft terms,

(b) the directors' explanatory report,

(c) the expert's report,

(d) the company's annual accounts and reports for the last three financial years ending on or before the first meeting of the members, or any class of members, of the company summoned for the purposes of approving the scheme,

(e) any supplementary accounting statement required by section 837, and

(f) if no statement is required by section 837 because the company has made public a recent half-yearly financial report (see subsection 837(2) of that section), that report.

(4) The requirement in subsection (1)(a) is subject to section 839 (publication of documents on company website).

(5) The requirements in subsection (3)(b), (3)(c) and (3)(e) are subject to section 846 (agreement to dispense with reports etc), section 847 (certain requirements excluded where shareholders given proportional rights) and section 848 (power of Court to exclude certain requirements).

(6) Section 1005 (right to hard copy version) does not apply to a document sent or supplied in accordance with subsection (1)(b) to a member who has consented to information being sent or supplied by the company by electronic means and has not revoked that consent.

(7) Part 4 of Schedule 5 (communications by means of a website) does not apply for the purposes of subsection (1)(b) (but see section 839(4)).

839. Publication of documents on company website (division)

Section 838(1)(a) does not apply to a document if the conditions in subsections (1) to (3) are met in relation to that document.

This is subject to subsection (5).

(1) The first condition is that the document is made available on a website which–

(a) is maintained by or on behalf of the company, and

(b) identifies the company.

(2) The second condition is that access to the document on the website is not conditional on payment of a fee or otherwise restricted.

(3) The third condition is that the document remains available on the website throughout the period beginning one month before, and ending on, the date of any meeting of the company summoned for the purpose of approving the scheme.

(4) A person is able to obtain a copy of a document as required by section 838(1)(b) if–

(a) the conditions in subsections (1) and (2) are met in relation to that document, and

(b) the person is able, throughout the period specified in subsection (3)–

(i) to retain a copy of the document as made available on the website, and

(ii) to produce a hard copy of it.

(5) Where members of a company are able to obtain copies of a document only as mentioned in subsection (4), section 838(1)(a) applies to that document even if the conditions in subsections (1) to (3) are met.

840. Report on material changes of assets of transferor company (division)

(1) The directors of the transferor company must report–

(a) to every meeting of the members, or any class of members, of that company summoned for the purpose of agreeing to the scheme, and

(b) to the directors of each existing transferee company,

any material changes in the property and liabilities of the transferor company between the date when the draft terms were adopted and the date of the meeting in question.

(2) The directors of each existing transferee company must in turn–

(a) report those matters to every meeting of the members, or any class of members, of that company summoned for the purpose of agreeing to the scheme, or

(b) send a report of those matters to every member entitled to receive notice of such a meeting.

(3) The requirement in this section is subject to section 846 (agreement to dispense with reports etc) and section 847 (certain requirements excluded where shareholders given proportional rights).

841. Approval of articles of new transferee company (division)

The articles of every new transferee company, or a draft of them, must be approved by ordinary resolution of the transferor company.

842. Protection of holders of securities to which special rights attached (division)

(1) The scheme must provide that where any securities of the transferor company (other than shares) to which special rights are attached are held by a person otherwise than as a member or creditor of the company, that person is to receive rights in a transferee company of equivalent value.

(2) Subsection (1) does not apply if–

(a) the holder has agreed otherwise, or

(b) the holder is, or under the scheme is to be, entitled to have the securities purchased by a transferee company on terms that the Court considers reasonable.

843. No allotment of shares to transferor company or to transferee company (division)

The scheme must not provide for any shares in a transferee company to be allotted to–

(a) the transferor company (or its nominee) in respect of shares in the transferor company held by the transferor company itself (or its nominee), or

(b) a transferee company (or its nominee) in respect of shares in the transferor company held by the transferee company (or its nominee).

844. Circumstances in which meeting of members of transferor company not required (division)

(1) This section applies in the case of a division where all of the shares or other securities of the transferor company carrying the right to vote at general meetings of the company are held by or on behalf of one or more existing transferee companies.

(2) It is not necessary for the scheme to be approved by a meeting of the members, or any class of members, of the transferor company if the Court is satisfied that the following conditions have been complied with.

(3) The first condition is that either subsection (4) or subsection (5) is satisfied.

(4) This subsection is satisfied if publication of notice of receipt of the draft terms by the Registrar took place in respect of all the companies involved in the division at least one month before the date of the Court's order.

(5) This subsection is satisfied if–

(a) the conditions in section 833(1) to 833(3) are met in respect of each of the companies involved in the division,

(b) in each case, the Registrar published the notice mentioned in subsection 833(3) of that section on the registar's website at least one month before the date of the Court's order, and

(c) the draft terms remained available on the website throughout the period beginning one month before, and ending on, that date.

(6) The second condition is that subsection (7) or (8) is satisfied for each of the documents listed in the applicable subsection 838(3) relating to every company involved in the division.

(7) This subsection is satisfied for a document if the members of every company involved in the division were able during the period beginning one month before, and ending on, the date of the Court's order to inspect that document at the registered office of their company.

(8) This subsection is satisfied for a document if–

(a) the document is made available on a website which is maintained by or on behalf of the company to which it relates and identifies the company,

(b) access to the document on the website is not conditional on payment of a fee or otherwise restricted, and

(c) the document remains available on the website throughout the period beginning one month before, and ending on, the date of the Court's order.

(9) The third condition is that the members of every company involved in the division were able to obtain copies of the documents mentioned in subsection (6), or any part of those documents, on request and free of charge, throughout the period beginning one month before, and ending on, the date of the Court's order.

(10) For the purposes of subsection (9)–

section 839(4) applies as it applies for the purposes of section 838(1)(b), and

(a) Part 4 of Schedule 5 (communications by means of a website) does not apply.

(11) The fourth condition is that the directors of the transferor company have sent–

(a) to every member who would have been entitled to receive notice of a meeting to agree to the scheme (had any such meeting been called), and

(b) to the directors of every existing transferee company,

a report of any material change in the property and liabilities of the transferor company between the date when the terms were adopted by the directors and the date one month before the date of the Court's order.

845. Circumstances in which meeting of members of transferee company not required (division)

(1) In the case of a division, it is not necessary for the scheme to be approved by the members of a transferee company if the Court is satisfied that the following conditions have been complied with in relation to that company.

(2) The first condition is that either subsection (3) or subsection (4) is satisfied.

(3) This subsection is satisfied if publication of notice of receipt of the draft terms by the Registrar took place in respect of the transferee company at least one month before the date of the first meeting of members of the transferor company summoned for the purposes of agreeing to the scheme.

(4) This subsection is satisfied if–

(a) the conditions in section 833(1) to 833(3) are met in respect of the transferee company,

(b) the Registrar published the notice mentioned in subsection 833(3) of that section on the Registrar's website at least one month before the date of the first meeting

of members of the transferor company summoned for the purposes of agreeing to the scheme, and

(c) the draft terms remained available on the website throughout the period beginning one month before, and ending on, that date.

(5) The second condition is that subsection (6) or (7) is satisfied for each of the documents listed in the applicable subsection 838(3) relating to the transferee company and every other company involved in the division.

(6) This subsection is satisfied for a document if the members of the transferee company were able during the period beginning one month before, and ending on, the date mentioned in subsection (3) to inspect that document at the registered office of that company.

(7) This subsection is satisfied for a document if–

(a) the document is made available on a website which is maintained by or on behalf of the transferee company and identifies the company,

(b) access to the document on the website is not conditional on payment of a fee or otherwise restricted, and

(c) the document remains available on the website throughout the period beginning one month before, and ending on, the date mentioned in subsection (3).

(8) The third condition is that the members of the transferee company were able to obtain copies of the documents mentioned in subsection (5), or any part of those documents, on request and free of charge, throughout the period beginning one month before, and ending on, the date mentioned in subsection (3).

(9) For the purposes of subsection (8)–

section 839(4) applies as it applies for the purposes of section 838(1)(b), and

(a) Part 4 of Schedule 5 (communications by means of a website) does not apply.

(10) The fourth condition is that–

(a) one or more members of that company, who together held not less than 5% of the voting rights of the members of the surviving company entitled to vote at general meetings of the surviving company (excluding any shares in the company held as treasury shares) would have been able, during that period, to require a meeting of each class of members to be called for the purpose of deciding whether or not to agree to the scheme, and

(b) no such requirement was made.

(11) The first, second and third conditions above are subject to section 848 (power of Court to exclude certain requirements).

846. Agreement to dispense with reports etc (division)

(1) If all members holding shares in, and all persons holding other securities of, the companies involved in the division, being shares or securities that carry a right to vote in general meetings of the company in question, so agree, the following requirements do not apply.

(2) The requirements that may be dispensed with under this section are–

(a) the requirements of–

(i) section 835 (directors' explanatory report),

(ii) section 836 (expert's report),

(iii) section 837 (supplementary accounting statement), and

(iv) section 840 (report on material changes in assets of transferor company), and

(b) the requirements of section 838 (inspection of documents) so far as relating to any document required to be drawn up under the provisions mentioned in subsection (a)(i), (a)(ii) or (a)(iii) above.

(3) For the purposes of this section–

(a) the members, or holders of other securities, of a company, and

(b) whether shares or other securities carry a right to vote in general meetings of the company,

are determined as at the date of the application to the Court under section 802.

847. Certain requirements excluded where shareholders given proportional rights (division)

This section applies in the case of a division where each of the transferee companies is a new company.

(1) If all the shares in each of the transferee companies are to be allotted to the members of the transferor company in proportion to their rights in the allotted share capital of the transferor company, the following requirements do not apply.

(2) The requirements which do not apply are–

(a) the requirements of–

(i) section 835 (directors' explanatory report),

(ii) section 836 (expert's report),

(iii) section 837 (supplementary accounting statement), and

(iv) section 840 (report on material changes in assets of transferor company), and

(b) the requirements of section 838 (inspection of documents) so far as relating to any document required to be drawn up under the provisions mentioned in subsection (a)(i), (a)(ii) or (a)(iii) above.

848. Power of Court to exclude certain requirements (division)

(1) In the case of a division, the Court may by order direct that–

(a) in relation to any company involved in the division, the requirements of–

(i) section 832 (publication of draft terms), and

(ii) section 838 (inspection of documents),

do not apply, and

(b) in relation to an existing transferee company, section 845 (circumstances in which meeting of members of transferee company not required) has effect with the omission of the first, second and third conditions specified in that section,

if the Court is satisfied that the following conditions will be fulfilled in relation to that company.

(2) The first condition is that the members of that company will have received, or will have been able to obtain free of charge, copies of the documents listed in section 838–

(a) in time to examine them before the date of the first meeting of the members, or any class of members, of that company summoned for the purposes of agreeing to the scheme, or

(b) in the case of an existing transferee company where in the circumstances described in section 845 no meeting is held, in time to require a meeting as mentioned in subsection 845(4) of that section.

(3) The second condition is that the creditors of that company will have received or will have been able to obtain free of charge copies of the draft terms in time to examine them–

(a) before the date of the first meeting of the members, or any class of members, of the company summoned for the purposes of agreeing to the scheme, or

(b) in the circumstances mentioned in subsection (2)(b) above, at the same time as the members of the company.

(4) The third condition is that no prejudice would be caused to the members or creditors of the transferor company or any transferee company by making the order in question.

Chapter 4

SUPPLEMENTARY PROVISIONS

849. Expert's report: valuation by another person

(1) Where it appears to an expert–

(a) that a valuation is reasonably necessary to enable him to draw up his report, and

(b) that it is reasonable for that valuation, or part of it, to be made by (or for him to accept a valuation made by) another person who–

(i) appears to him to have the requisite knowledge and experience to make the valuation or that part of it, and

(ii) meets the independence requirement in section 850,

he may arrange for or accept such a valuation, together with a report which will enable him to make his own report under section 816 or 836.

(2) Where any valuation is made by a person other than the expert himself, the latter's report must state that fact and must also–

(a) state the former's name and what knowledge and experience he has to carry out the valuation, and

(b) describe so much of the undertaking, property and liabilities as was valued by the other person, and the method used to value them, and specify the date of the valuation.

850. Experts and valuers: independence requirement

(1) A person meets the independence requirement for the purposes of section 816 or 836 (expert's report) or section 849 (valuation by another person) only if–

(a) he is not–

(i) an officer or employee of any of the companies or bodies corporate concerned in the scheme, or

(ii) a partner or employee of such a person, or a partnership of which such a person is a partner,

(b) he is not–

(i) an officer or employee of an associated undertaking of any of the companies or bodies corporate concerned in the scheme, or

(ii) a partner or employee of such a person, or a partnership of which such a person is a partner, and

(c) there does not exist between–

(i) the person or an associate of his, and

(ii) any of the companies or bodies corporate concerned in the scheme or an associated undertaking of such a company or body corporate,

a connection of any such description as may be specified by rules made by the Board.

(2) An auditor of a company or body corporate is not regarded as an officer or employee of the company for this purpose.

(3) For the purposes of this section–

(a) the "companies concerned in the scheme" means every merging company, transferor and existing transferee company,

(b) "associated undertaking", in relation to a company or body corporate, means–

(i) a parent undertaking or subsidiary undertaking of the company or body corporate, or

(ii) a subsidiary undertaking of a parent undertaking of the company or body corporate, and

(c) "associate" has the meaning given by section 851.

Expert's report and related matters

851. Experts and valuers: meaning of "associate"

(1) This section defines "associate" for the purposes of section 850 (experts and valuers: independence requirement).

(2) In relation to an individual, "associate" means–

(a) that individual's spouse or minor child or step-child,

(b) any body corporate of which that individual is a director, and

(c) any employee or partner of that individual.

(3) In relation to a body corporate, "associate" means–

(a) any body corporate of which that body is a director,

(b) any body corporate in the same group as that body, and

(c) any employee or partner of that body or of any body corporate in the same group.

Powers of the Court

852. Power of Court to summon meeting of members or creditors of existing merging company or transferee company

(1) The Court may order a meeting of–

(a) the members of an existing transferee company, or any class of them, or

(b) the creditors of an existing transferee company, or any class of them,

to be summoned in such manner as the Court directs.

(2) An application for such an order may be made by–

(a) the company concerned,

(b) a member or creditor of the company,

(c) if the company is being wound up, the liquidator, or

(d) if the company is in administration, the administrator.

(3) Section 341 (representation of corporations at meetings) applies to a meeting of creditors under this section as to a meeting of the company (references to a member being read as references to a creditor).

853. Court to fix date of merger or for transfer of undertaking etc of transferor company

(1) Where the Court sanctions the compromise or arrangement, it must–

(a) in the order sanctioning the compromise or arrangement, or

(b) in a subsequent order under section 806 (powers of Court to facilitate reconstruction or amalgamation or merger or division),

fix a date on which the merger by absorption, merger by consolidation or division is to take place.

(2) Any such order that provides for the dissolution of the transferor company must fix the same date for the dissolution.

(3) If it is necessary for the transferor company to take steps to ensure that the undertaking, property and liabilities are fully transferred, the Court must fix a date, not later than six months after the date fixed under subsection (1), by which such steps must be taken.

(4) In that case, the Court may postpone the dissolution of the transferor company until that date.

(5) The Court may postpone or further postpone the date fixed under subsection (3) if it is satisfied that the steps mentioned cannot be completed by the date (or latest date) fixed under that subsection.

Liability of transferee companies

854. Liability of transferee companies for each other's defaults

(1) In the case of a division, each transferee company is jointly and severally liable for any liability transferred to any other transferee company under the scheme to the extent that the other company has made default in satisfying that liability. This is subject to the following provisions.

(2) If 75% in value of the creditors or class of creditors or members or class of members (as the case may be) representing 75% of the voting rights of the members or class of members (as the case may be), present and voting either in person or by proxy at a meeting summoned for the purposes of agreeing to the scheme, so agree, subsection (1) does not apply in relation to the liabilities owed to the creditors or that class of creditors.

(3) A transferee company is not liable under this section for an amount greater than the net value transferred to it under the scheme.

The "net value transferred" is the value at the time of the transfer of the property transferred to it under the scheme less the amount at that date of the liabilities so transferred.

Disruption of websites

855. Disregard of website failures beyond control of company

A failure to make information or a document available on the website throughout a period specified in any of the provisions mentioned in subsection (2) is to be disregarded if–

(a) it is made available on the website for part of that period, and

(b) the failure to make it available throughout that period is wholly attributable to circumstances that it would not be reasonable to have expected the company to prevent or avoid.

(2) The provisions referred to above are–

(a) section 813(5),

(b) section 819(3),

(c) section 826(5) and 826(8),

(d) section 827(5) and 827(8),

(e) section 828(4) and 828(7),

(f) section 833(5),

(g) section 839(3),

(h) section 844(5) and 844(8), and

(i) section 845(4) and 845(7).

Interpretation

856. Meaning of "liabilities" and "property"

In this Part–

"liabilities" includes duties,

"property" includes property, rights and powers of every description.

Part 27

FRAUDULENT TRADING

857. Fraudulent trading

(1) If any business of a company is carried on with intent to defraud creditors of the company or creditors of any other person, or for any fraudulent purpose, a contravention of these Regulations is committed by every person who is knowingly a party to the carrying on of the business in that manner .

(2) This applies whether or not the company has been, or is in the course of being, wound up.

(3) A person who commits the contravention referred to in subsection (1) shall be liable for a fine of up to level 8.

(4) The provisions of this section are without prejudice to any other fine, censure or legal proceeding to which a director may be subject under these Regulations or any other law or regulation applicable in the Abu Dhabi Global Market.

Part 28

PROTECTION OF MEMBERS AGAINST UNFAIR PREJUDICE

Main provisions

858. Petition by company member

(1) A member of a company may apply to the Court by petition for an order under this Part on the ground–

(a) that the company's affairs are being or have been conducted in a manner that is unfairly prejudicial to the interests of members generally or of some part of its members (including at least himself), or

(b) that an actual or proposed act or omission of the company (including an act or omission on its behalf) is or would be so prejudicial.

(2) For the purposes of subsection (1)(a), a removal of the company's auditor from office–

on grounds of divergence of opinions on accounting treatments or audit procedures, or

(a) on any other improper grounds,

shall be treated as being unfairly prejudicial to the interests of some part of the company's members.

(3) The provisions of this Part apply to a person who is not a member of a company but to whom shares in the company have been transferred or transmitted by operation of law as they apply to a member of a company.

859. Petition by the Board

(1) This section applies to a company in respect of which–

(a) the Board has exercised its powers of investigation under these Regulations, or

(b) the Board has received a report from an investigator appointed by it under that Part.

(2) If it appears to the Board that in the case of such a company–

(a) the company's affairs are being or have been conducted in a manner that is unfairly prejudicial to the interests of members generally or of some part of its members, or

(b) an actual or proposed act or omission of the company (including an act or omission on its behalf) is or would be so prejudicial,

it may apply to the Court by petition for an order under this Part.

(3) The Board may do this in addition to, or instead of, presenting a petition for the winding up of the company.

(4) In this section, and so far as applicable for the purposes of this section in the other provisions of this Part, "company" means any body corporate that is liable to be wound up under the Insolvency Regulations 2015.

860. Powers of the Court under this Part

(1) If the Court is satisfied that a petition under this Part is well founded, it may make such order as it thinks fit for giving relief in respect of the matters complained of.

(2) Without prejudice to the generality of subsection (1), the Court's order may–

(a) regulate the conduct of the company's affairs in the future,

(b) require the company–

(i) to refrain from doing or continuing an act complained of, or

(ii) to do an act that the petitioner has complained it has omitted to do,

(c) authorise civil proceedings to be brought in the name and on behalf of the company by such person or persons and on such terms as the Court may direct,

(d) require the company not to make any, or any specified, alterations in its articles without the leave of the Court,

(e) provide for the purchase of the shares of any members of the company by other members or by the company itself and, in the case of a purchase by the company itself, the reduction of the company's capital accordingly.

Supplementary provisions

861. Application of general rule-making powers

The power of the Board to make rules under the Insolvency Regulations 2015 in so far as relating to a winding-up petition, applies for the purposes of a petition under this Part.

862. Copy of order affecting company's constitution to be delivered to Registrar

(1) Where an order of the Court under this Part–

(a) alters the company's constitution, or

(b) gives leave for the company to make any, or any specified, alterations to its constitution,

the company must deliver a copy of the order to the Registrar.

(2) It must do so within 14 days from the making of the order or such longer period as the Court may allow.

(3) If a company makes default in complying with this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a level 2 fine.

863. Supplementary provisions where company's constitution altered

(1) This section applies where an order under this Part alters a company's constitution.

(2) If the order amends–

(a) a company's articles, or

(b) any resolution or agreement to which Chapter 3 of Part 3 applies (resolution or agreement affecting a company's constitution),

the copy of the order delivered to the Registrar by the company under section 862 must be accompanied by a copy of the company's articles, or the resolution or agreement in question, as amended.

(3) Every copy of a company's articles issued by the company after the order is made must be accompanied by a copy of the order, unless the effect of the order has been incorporated into the articles by amendment.

(4) If a company makes default in complying with this section, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(5) A person who commits the contravention referred to in subsection (4) shall be liable to a level 2 fine.

Part 29

DISSOLUTION AND RESTORATION TO THE REGISTER

Chapter 1

STRIKING OFF

Registrar's power to strike off defunct company

864. Power to strike off company[24]

(1) If the Registrar has reasonable cause to believe that a company is not carrying on business or in operation, the Registrar may send to the company a communication inquiring whether the company is carrying on business or in operation.

(1A) If the Registrar has reasonable cause to believe that a company has failed to appoint a company service provider in accordance with section 296A of these Regulations, the Registrar may send to the company a communication inquiring whether:

(a) the company is a 'non-exempt' for the purpose of section 296A of these Regulations, and

[24] Amended 12 April 2021
Amended 23 February 2023

(b) the company has appointed a company service provider.

(2) If the Registrar does not, within 14 days of sending the communication under sections (1) or (1A) above, receive any answer to it, the Registrar must after the expiration of that period send to the company a second communication referring to the first communication and stating–

(a) that no answer to it has been received, and

(b) that if an answer is not received to the second communication within 14 days from its date, a notice will be published on the Registrar's website with a view to striking the company's name off the register.

(3) If, within 14 days after sending the second communication, the Registrar–

(a) receives an answer to the effect that –

(i) the company is not carrying on business or is in operation, or

(ii) a 'non-exempt company' has failed to appoint a company service provider in accordance with section 296A of these Regulations; or

(b) does not receive any answer,

the Registrar may publish on the Registrar's website and send to the company, a notice that at the expiration of two months from the date of the notice the name of the company mentioned in it will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register.

(5) The Registrar must publish notice on the Registrar's website of the company's name having been struck off the register.

(6) On the publication of the notice on the Registrar's website the company is dissolved.

(7) However–

(a) the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved, and

(b) nothing in this section affects the power of the Court to wind up a company the name of which has been struck off the register.

865. Duty to act in case of company being wound up

(1) If, in a case where a company is being wound up–

(a) the Registrar has reasonable cause to believe–

(i) that no liquidator is acting, or

(ii) that the affairs of the company are fully wound up, and

(b) the returns required to be made by the liquidator have not been made for a period of 12 consecutive months,

the Registrar must publish on the Registrar's website and send to the company or the liquidator (if any), a notice that at the expiration of three months from the date of the

notice the name of the company mentioned in it will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(2) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register.

(3) The Registrar must publish notice on the Registrar's website of the company's name having been struck off the register.

(4) On the publication of the notice on the Registrar's website the company is dissolved.

(5) However–

(a) the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved, and

(b) nothing in this section affects the power of the Court to wind up a company the name of which has been struck off the register.

866. Supplementary provisions as to service of communication or notice

(1) If the Registrar is not able to send a communication or notice under section 864 or 865 to a company in accordance with Schedule 4, the communication may be sent to an officer of the company at an address for that officer or agent that has been notified to the Registrar by the company.

(2) If there is no officer of the company whose name and address are known to the Registrar, the communication or notice may be sent to each of the initial shareholders (if their addresses are known to the Registrar).

(3) A notice to be sent to a liquidator under section 865 may be sent to the address of the liquidator's last known place of business or to an address specified by the liquidator to the Registrar for the purpose of receiving notices, or notices of that kind.

(4) In this section "address" has the same meaning as in section 1008(1).

Voluntary striking off

867. Striking off on application by company with notice to members, employees etc.[25]

(1) On application by a company under this section, the Registrar of companies may strike the company's name off the register.

(2) An application under this section–

(a) must be made on the company's behalf by its directors or by a majority of them, and

(b) must contain the prescribed information.

(3) The Registrar may not strike a company off under this section until after the expiration of two months from the publication by the Registrar on the Registrar's website of a notice–

[25] Amended 23 February 2023

(a) stating that the Registrar may exercise the power under this section in relation to the company, and

(b) inviting any person to show cause why that should not be done.

(4) The Registrar must publish notice on the Registrar's website of the company's name having been struck off.

(5) On the publication of the notice on the Registrar's website the company is dissolved.

(6) However–

(a) the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved, and

(b) nothing in this section affects the power of the Court to wind up a company the name of which has been struck off the register.

867A. Striking off on application by company supported by a prescribed statement

(1) On application by an eligible company (see section 867B) under this section, the Registrar may strike the company's name off the register.

(2) An application under this section–

(a) must be approved by all members of the company present at a meeting of members or by written resolution signed by each member of the company,

(b) must be supported by a prescribed statement (see section 867C) made not more than 15 days before the date on which the resolution is passed, and

(c) must contain the prescribed information.

(3) Where the resolution is proposed as a written resolution, a copy of the statement must be sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him.

(4) Where the resolution is proposed at a general meeting, a copy of the prescribed statement must be made available for inspection by members of the company throughout that meeting.

(5) The validity of a resolution is not affected by a failure to comply with subsection (3) or (4).

(6) The Registrar may not strike a company off under this section until after the expiration of two months from the publication by the Registrar on the Registrar's website of a notice–

(a) stating that the Registrar may exercise the power under this section in relation to the company, and

(b) inviting any person to show cause why that should not be done.

(7) The Registrar must publish notice on the Registrar's website of the company's name having been struck off.

(8) On the publication of the notice on the Registrar's website the company is dissolved.

(9) However–

(a) the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved, and

(b) nothing in this section affects the power of the Court to wind up a company the name of which has been struck off the register.

867B. Eligible company

(1) An eligible company for the purpose of section 867A (application for voluntary striking off supported by prescribed statement) is a company that-

(a) qualifies as a small company for the purpose of section 369 (companies qualifying as small) as modified by section 371 (companies excluded from small companies regime),

(b) meets such additional requirements as the Registrar may from time to time publish on the Registrar's website, and

(c) subject to subsection (2), is not and has not been either an Authorised Person (as defined in the Financial Services and Markets Regulations 2015) or carried out a Regulated Activity (as defined in the Financial Services and Markets Regulations 2015).

(2) Companies who:

(a) meet the criteria in paragraphs (a) and (b) of subsection (1),

(b) are licensed pursuant to the Commercial Licensing Regulations 2015 to carry on the Controlled Activity (as defined in the Commercial Licensing Regulations 2015) of developing Financial Technology Services within the RegLab, and

(c) have ceased to be an Authorised Person (as defined in the Financial Services and Markets Regulations 2015),

are eligible companies for the purpose of section 867A.

867C. Prescribed statement

(1) A prescribed statement is a statement that each of the directors has formed the opinion, as regards the company's situation at the date of the statement that-

(a) the company is an eligible company,

(b) the company is not precluded by sections 868 and 869 from making an application under section 867A (application for voluntary striking off supported by prescribed statement),

(c) that the company has no employees, and

(d) that all creditors of the company have been paid or otherwise discharged in full and the company has no other liabilities (including any contingent or prospective liabilities and liabilities in respect of current or former directors, employees or clients).

(2) In forming those opinions-

(a) the directors must take into account-

(i) any payment to members proposed to be made prior to the company being dissolved, details of which must be stated on the prescribed statement, and

(ii) all of the company's liabilities (including any contingent or prospective liabilities),

(b) the directors may take into account any arrangement made by the company for the discharge of the company's contingent or prospective liabilities by a third party following its dissolution and striking off.

(3) The prescribed statement must be in the prescribed form and must state-

(a) the date on which it is made, and

(b) the name of each director of the company.

(4) If the directors make a prescribed statement without having reasonable grounds for the opinions expressed in it, and the statement is delivered to the Registrar, a contravention of these Regulations is committed by every director who is in default.

(5) If the directors make a prescribed statement and prior to an application made under section 867A being finally dealt with cease to have reasonable grounds for the opinions expressed in the prescribed statement or the opinions expressed in the prescribed statement cease to be true, the directors shall withdraw the company's application under section 873 (circumstances in which application to be withdrawn).

(6) A person who commits a contravention of subsection (4) is liable to a fine of up to level 8.

868. Circumstances in which application not to be made: activities of company

(1) An application under section 867 (application for voluntary striking off with notice to members, employees etc.) or under section 867A (application for voluntary striking off supported by prescribed statement) on behalf of a company must not be made if, at any time in the previous three months, the company has–

(a) changed its name,

(b) traded or otherwise carried on business,

(c) made a disposal for value of property or rights that, immediately before ceasing to trade or otherwise carry on business, it held for the purpose of disposal for gain in the normal course of trading or otherwise carrying on business, or

(d) engaged in any other activity, except one which is–

(i) necessary or expedient for the purpose of making an application under that section, or deciding whether to do so,

(ii) necessary or expedient for the purpose of concluding the affairs of the company,

(iii) necessary or expedient for the purpose of complying with any statutory requirement, or

(iv) specified by rules made by the Board by resolution for the purposes of this sub-paragraph.

(2) For the purposes of this section, a company is not to be treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.

(3) It is a contravention of these Regulations for a person to make an application in contravention of this section.

(4) It is a defence to such a contravention for the person who committed the contravention to prove that he did not know, and could not reasonably have known, of the existence of the facts that led to the contravention.

(5) A person who commits a contravention under this section shall be liable to a level 3 fine.

869. Circumstances in which application not to be made: other proceedings not concluded

(1) An application under section 867 (application for voluntary striking off) or under section 867A (application for voluntary striking off supported by prescribed statement) on behalf of a company must not be made at a time when–

(a) an application to the Court under Part 25 has been made on behalf of the company for the sanctioning of a compromise or arrangement and the matter has not been finally concluded,

(b) the company is in administration under Part 1 (administration) of the Insolvency Regulations 2015,

(c) the company is being wound up under Part 3 (winding up) of the Insolvency Regulations 2015 whether voluntarily or by the Court, or a petition under that Part for winding up of the company by the Court has been presented and not finally dealt with or withdrawn,

(d) there is a receiver appointed in respect of the company's property.

(2) For the purposes of subsection (1)(a), the matter is finally concluded if–

(a) the application has been withdrawn,

(b) the application has been finally dealt with without a compromise or arrangement being sanctioned by the Court, or

(c) a compromise or arrangement has been sanctioned by the Court and has, together with anything required to be done under any provision made in relation to the matter by order of the Court, been fully carried out.

(3) It is a contravention of these Regulations for a person to make an application in contravention of this section.

(4) It is a defence to such a contravention for the person who committed the contravention to prove that he did not know, and could not reasonably have known, of the existence of the facts that led to the contravention.

(5) A person who commits a contravention of this section shall be liable to a level 3 fine.

870. Copy of application to be given to members, employees, etc.

(1) A person who makes an application under section 867 (application for voluntary striking off) on behalf of a company must ensure that, within seven days from the day on which the application is made, a copy of it is given to every person who at any time on that day is–

(a) a member of the company,

(b) an employee of the company,

(c) a creditor of the company,

(d) a director of the company,

(e) a manager or trustee of any pension fund established for the benefit of employees of the company, or

(f) a person of a description specified for the purposes of this paragraph by an execution decision of the Registrar.

(2) Subsection (1) does not require a copy of the application to be given to a director who is a party to the application.

(3) The duty imposed by this section ceases to apply if the application is withdrawn before the end of the period for giving the copy application.

(4) A person who fails to perform the duty imposed on him by this section commits a contravention of these Regulations.

If he does so with the intention of concealing the making of the application from the person concerned, he commits an aggravated contravention.

(5) It is a defence to such a contravention for the person who committed the contravention to prove that he took all reasonable steps to perform the duty.

(6) A person who commits a contravention of this section (other than an aggravated contravention) shall be liable to a fine of up to level 7.

871. Copy of application to be given to new members, employees, etc.

(1) This section applies in relation to any time after the day on which a company makes an application under section 867 (application for voluntary striking off) and before the day on which the application is finally dealt with or withdrawn.

(2) A person who is a director of the company at the end of a day on which a person (other than himself) becomes–

(a) a member of the company,

(b) an employee of the company,

(c) a creditor of the company,

(d) a director of the company,

(e) a manager or trustee of any pension fund established for the benefit of employees of the company, or

(f) a person of a description specified for the purposes of this paragraph by rules made the Board by resolution,

must ensure that a copy of the application is given to that person within seven days from that day.

(3) The duty imposed by this section ceases to apply if the application is finally dealt with or withdrawn before the end of the period for giving the copy application.

(4) A person who fails to perform the duty imposed on him by this section commits a contravention of these Regulations.

If he does so with the intention of concealing the making of the application from the person concerned, he commits an aggravated contravention.

(5) It is a defence to such a contravention for the person who committed the contravention to prove-

(a) that at the time of the failure he was not aware of the fact that the company had made an application under section 867, or

(b) that he took all reasonable steps to perform the duty.

(6) A person who commits a contravention of this section shall be liable to a fine of up to level 7.

872. Copy of application: provisions as to service of documents

(1) The following provisions have effect for the purposes of–

section 870 (copy of application to be given to members, employees, etc.), and

section 871 (copy of application to be given to new members, employees, etc.).

(2) A document is treated as given to a person if it is–

(a) delivered to him in person, or

(b) left at his residential or service address, or

(c) sent by post to him at his service address.

(3) For the purposes of subsection (2)(c), service (whether the expression "serve" or the expression "give" or "send" or any other expression is used) of documents by post is, unless the contrary intention appears, deemed to be effected by properly addressing, pre-paying and posting a letter containing the document and, unless the contrary is proved, effected at the time at which the letter would be delivered in the ordinary course of post and, as it applies in relation to that subsection, the service address of a person is–

(a) in the case of a firm incorporated or formed in the Abu Dhabi Global Market, its registered office,

(b) in the case of a firm incorporated or formed outside the Abu Dhabi Global Market –

(i) if it has a place of business in the Abu Dhabi Global Market, its principal office in the Abu Dhabi Global Market, or

(ii) if it does not have a place of business in the Abu Dhabi Global Market, its registered or principal office,

(c) in the case of an individual, his last known service address.

(4) In the case of a creditor of the company a document is treated as given to him if it is left or sent by post to him–

(a) at the place of business of his with which the company has had dealings by virtue of which he is a creditor of the company, or

(b) if there is more than one such place of business, at each of them.

873. Circumstances in which application to be withdrawn

(1) This section applies where, at any time on or after the day on which a company makes an application under section 867 (application for voluntary striking off) or under section 867A (application for voluntary striking off supported by a prescribed statement) and before the day on which the application is finally dealt with or withdrawn–

(a) the company–

(i) changes its name,

(ii) trades or otherwise carries on business,

(iii) makes a disposal for value of any property or rights other than those which it was necessary or expedient for it to hold for the purpose of making, or proceeding with, an application under that section, or

(iv) engages in any activity, except one to which subsection (4) applies,

(b) an application is made to the Court under Part 25 on behalf of the company for the sanctioning of a compromise or arrangement,

(c) an application to the Court for an administration order in respect of the company is made under sections 8 (administration application) or 17 (administration application to appoint specified person as administrators by holder of qualifying charge) of the Insolvency Regulations 2015,

(d) an administrator is appointed in respect of the company under Part 1 (administration) of the Insolvency Regulations 2015, or a copy of notice of intention to appoint an administrator of the company under any of those provisions is filed with the Court,

(e) there arise any of the circumstances in which, under Chapter 2 (voluntary winding up) of Part 3 (winding up) of the Insolvency Regulations 2015, the company may be voluntarily wound up,

(f) a petition is presented for the winding up of the company by the Court under Chapter 6 (compulsory winding up) of Part 3 (winding up) of the Insolvency Regulations 2015,

(g) a receiver is appointed in respect of the company's property is appointed,

(h) the circumstances set out in subsection (5) of section 867C (prescribed statement) apply.

(2) A person who, at the end of a day on which any of the events mentioned in subsection (1) occurs, is a director of the company must secure that the company's application is withdrawn forthwith.

(3) For the purposes of subsection (1)(a)(ii), a company is not treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.

(4) The excepted activities referred to in subsection (1)(a)(iv) are–

(a) any activity necessary or expedient for the purposes of–

(i) making, or proceeding with, an application under section 867 (application for voluntary striking off) or under section 867A (application for voluntary striking off supported by prescribed statement),

(ii) concluding affairs of the company that are outstanding because of what has been necessary or expedient for the purpose of making, or proceeding with, such an application, or

(iii) complying with any statutory requirement,

(b) any activity specified in rules made by the Board by resolution for the purposes of this subsection.

(5) A person who fails to perform the duty imposed on him by this section commits a contravention of these Regulations.

(6) It is a defence to such a contravention for the person who committed the contravention to prove–

(a) that at the time of the failure he was not aware of the fact that the company had made an application under section 867 or under section 867A, or

(b) that he took all reasonable steps to perform the duty.

(7) A person who commits a contravention under this section shall be liable to a level 3 fine.

874. Withdrawal of application

An application under section 867 or under section 867A is withdrawn by notice to the Registrar.

875. Meaning of "creditor"

In this Chapter "creditor" includes a contingent or prospective creditor.

Chapter 2

PROPERTY OF DISSOLVED COMPANY

Property vesting as bona vacantia

876. Property of a dissolved company

(1) When a company is dissolved, all property and rights whatsoever vested in or held on trust for the company immediately before its dissolution (but not including property held by the company on trust for another person) are deemed to be *bona vacantia* and–

(a) accordingly belong to the Board, and

(b) vest and may be dealt with in the same manner as other *bona vacantia* accruing to the Board.

(2) Subsection (1) has effect subject to the possible restoration of the company to the register under Chapter 3 (see section 113).

877. Board disclaimer of property vesting as bona vacantia

(1) Where property vests in the Board under section 876, the Board's title to it under that section may be disclaimed by a notice signed by a person duly authorised by the Board.

(2) The right to execute a notice of disclaimer under this section may be waived by or on behalf of the Board either expressly or by taking possession.

(3) A notice of disclaimer must be executed within three years after–

(a) the date on which the fact that the property may have vested in the Board under section 876 first comes to the notice of the Board, or

(b) if ownership of the property is not established at that date, the end of the period reasonably necessary for the Board to establish the ownership of the property.

(4) If an application in writing is made to the Board by a person interested in the property requiring him to decide whether he will or will not disclaim, any notice of disclaimer must be executed within twelve months after the making of the application or such further period as may be allowed by the Court.

(5) A notice of disclaimer under this section is of no effect if it is shown to have been executed after the end of the period specified by subsection (3) or (4).

(6) A notice of disclaimer under this section must be delivered to the Registrar and retained and registered by him.

(7) Copies of it must be published on the website of the Registrar and sent to any persons who have given the Board notice that they claim to be interested in the property.

878. Effect of Board disclaimer

Where notice of disclaimer is executed under section 877 as respects any property, that property is deemed not to have vested in the Board under section 876.

Effect of Board disclaimer

879. General effect of disclaimer

(1) The Board's disclaimer operates so as to determine, as from the date of the disclaimer, the rights, interests and liabilities of the company in or in respect of the property disclaimed.

(2) It does not, except so far as is necessary for the purpose of releasing the company from any liability, affect the rights or liabilities of any other person.

880. Disclaimer of leasehold property

(1) The disclaimer of any property of a leasehold character does not take effect unless a copy of the disclaimer has been served (so far as Board is aware of their addresses) on every person claiming under the company as underlessee , sublessee or mortgagee, and either–

(a) no application under section 881 (power of Court to make vesting order) is made with respect to that property before the end of the period of 14 days beginning with the day on which the last notice under this paragraph was served, or

(b) where such an application has been made, the Court directs that the disclaimer shall take effect.

(2) Where the Court gives a direction under subsection (1)(b) it may also, instead of or in addition to any order it makes under section 881, make such order as it thinks fit with respect to fixtures, tenant's improvements and other matters arising out of the lease.

881. Power of Court to make vesting order

(1) The Court may on application by a person who–

(a) claims an interest in the disclaimed property, or

(b) is under a liability in respect of the disclaimed property that is not discharged by the disclaimer,

make an order under this section in respect of the property.

(2) An order under this section is an order for the vesting of the disclaimed property in, or its delivery to–

(a) a person entitled to it (or a trustee for such a person), or

(b) a person subject to such a liability as is mentioned in subsection (1)(b) (or a trustee for such a person).

(3) An order under subsection (2)(b) may only be made where it appears to the Court that it would be just to do so for the purpose of compensating the person subject to the liability in respect of the disclaimer.

(4) An order under this section may be made on such terms as the Court thinks fit.

(5) On a vesting order being made under this section, the property comprised in it vests in the person named in that behalf in the order without conveyance, assignment or transfer.

Chapter 3

RESTORATION TO THE REGISTER

Administrative restoration to the register

882. Application for administrative restoration to the register

(1) An application may be made to the Registrar to restore to the register a company that has been struck off the register under section 864 or 865 (power of Registrar to strike off defunct company).

(2) An application under this section may be made whether or not the company has in consequence been dissolved.

(3) An application under this section may only be made by a former director or former member of the company.

(4) An application under this section may not be made after the end of the period of six years from the date of the dissolution of the company.

For this purpose an application is made when it is received by the Registrar.

883. Requirements for administrative restoration

(1) On an application under section 882 the Registrar shall restore the company to the register if, and only if, the following conditions are met.

(2) The first condition is that the company was carrying on business or in operation at the time of its striking off.

(3) The second condition is that, if any property or right previously vested in or held on trust for the company has vested as *bona vacantia*, the Board has signified to the Registrar in writing consent to the company's restoration to the register.

(4) It is the applicant's responsibility to obtain that consent and to pay any costs of the Board –

(a) in dealing with the property during the period of dissolution, or

(b) in connection with the proceedings on the application,

that may be demanded as a condition of giving consent.

(5) The third condition is that the applicant has–

(a) delivered to the Registrar such documents relating to the company as are necessary to bring up to date the records kept by the Registrar, and

(b) paid any penalties under section 431 that were outstanding at the date of dissolution or striking off.

884. Application to be accompanied by statement of compliance

(1) An application under section 882 (application for administrative restoration to the register) must be accompanied by a statement of compliance.

(2) The statement of compliance required is a statement–

(a) that the person making the application has standing to apply (see subsection (3) of that section), and

(b) that the requirements for administrative restoration (see section 883) are met.

(3) The Registrar may accept the statement of compliance as sufficient evidence of those matters.

885. Registrar's decision on application for administrative restoration

(1) The Registrar must give notice to the applicant of the decision on an application under section 882 (application for administrative restoration to the register).

(2) If the decision is that the company should be restored to the register, the restoration takes effect as from the date that notice is sent.

(3) In the case of such a decision, the Registrar must–

(a) enter on the register a note of the date as from which the company's restoration to the register takes effect, and

(b) cause notice of the restoration to be published on the website of the Registrar.

(4) The notice under subsection (3)(b) must state–

(a) the name of the company or, if the company is restored to the register under a different name (see section 891), that name and its former name,

(b) the company's registered number, and

(c) the date as from which the restoration of the company to the register takes effect.

886. Effect of administrative restoration

(1) The general effect of administrative restoration to the register is that the company is deemed to have continued in existence as if it had not been dissolved or struck off the register.

(2) The company is not liable to a penalty under section 426 for a financial year in relation to which the period for filing accounts and reports ended–

(a) after the date of dissolution or striking off, and

(b) before the restoration of the company to the register.

(3) The Court may give such directions and make such provision as seems just for placing the company and all other persons in the same position (as nearly as may be) as if the company had not been dissolved or struck off the register.

(4) An application to the Court for such directions or provision may be made any time within three years after the date of restoration of the company to the register.

887. Application to Court for restoration to the register

(1) An application may be made to the Court to restore to the register a company–

(a) that has been dissolved under Part 10 (dissolution) of the Insolvency Regulations 2015,

(b) that is deemed to have been dissolved under Part 10 (dissolution) of the Insolvency Regulations 2015, or

(c) that has been struck off the register–

(i) under section 864 or 865 (power of Registrar to strike off defunct company),

(ii) under section 867 (voluntary striking off), or

(iii) under section 867A (application for voluntary striking off supported by a prescribed statement),

whether or not the company has in consequence been dissolved.

(2) An application under this section may be made by–

(a) the Board,

(b) any former director of the company,

(c) any person having an interest in property–

(i) that was subject to rights vested in the company, or

(ii) that was benefited by obligations owed by the company,

(d) any person who but for the company's dissolution would have been in a contractual relationship with it,

(e) any person with a potential legal claim against the company,

(f) any manager or trustee of a pension fund established for the benefit of employees of the company,

(g) any former member of the company (or the personal representatives of such a person),

(h) any person who was a creditor of the company at the time of its striking off or dissolution,

(i) any former liquidator of the company,

(j) where the company was struck off the register under section 867 (voluntary striking off), any person of a description specified by regulations under section 870(1)(e) or 871(2)(e) (persons entitled to notice of application for voluntary striking off),

or by any other person appearing to the Court to have an interest in the matter.

888. When application to the Court may be made

(1) An application to the Court for restoration of a company to the register may be made at any time for the purpose of bringing proceedings against the company for damages for personal injury.

(2) No order shall be made on such an application if it appears to the Court that the proceedings would fail by virtue of any law or regulation applicable to the Abu Dhabi Global Market as to the time within which proceedings must be brought.

(3) In making that decision the Court must have regard to its power under section 890(3) (power to give consequential directions etc.) to direct that the period between the dissolution (or striking off) of the company and the making of the order is not to count for the purposes of any such law or regulation applicable to the Abu Dhabi Global Market.

(4) In any other case an application to the Court for restoration of a company to the register may not be made after the end of the period of six years from the date of the dissolution of the company, subject as follows.

(5) In a case where–

(a) the company has been struck off the register under section 864 or 865 (power of Registrar to strike off defunct company),

(b) an application to the Registrar has been made under section 882 (application for administrative restoration to the register) within the time allowed for making such an application, and

(c) the Registrar has refused the application,

an application to the Court under this section may be made within one month of notice of the Registrar's decision being issued by the Registrar, even if the period of six years mentioned in subsection (4) above has expired.

(6) For the purposes of this section–

(a) "personal injury" includes any disease and any impairment of a person's physical or mental condition, and

(b) references to damages for personal injury include–

(i) any sum in respect of funeral expenses claimed for the benefit of the estate of a person injured, where the death of such person has been caused by an act or omission which gives rise to a cause of action arising on such person's death, and

(ii) damages arising where death of a person is caused by any wrongful act, neglect or default which is such as would (if death had not ensued) have entitled the person injured to maintain an action and recover damages in respect thereof, notwithstanding the death of the person injured.

889. Decision on application for restoration by the Court

(1) On an application under section 887 the Court may order the restoration of the company to the register–

(a) if the company was struck off the register under section 864 or 865 (power of Registrar to strike off defunct companies) and the company was, at the time of the striking off, carrying on business or in operation,

(b) if the company was struck off the register under section 867 (voluntary striking off) and any of the requirements of sections 868 to 873 was not complied with,

(c) if the company was struck off the register under section 867A (application for voluntary striking off supported by a prescribed statement) and any of the requirements of sections 867B to 873 was not complied with,

(d) if in any other case the Court considers it just to do so.

(2) If the Court orders restoration of the company to the register, the restoration takes effect on a copy of the Court's order being delivered to the Registrar.

(3) The Registrar must cause to be published on the website of the Registrar notice of the restoration of the company to the register.

(4) The notice must state–

(a) the name of the company or, if the company is restored to the register under a different name (see section 891), that name and its former name,

(b) the company's registered number, and

(c) the date on which the restoration took effect.

890. Effect of Court order for restoration to the register

(1) The general effect of an order by the Court for restoration to the register is that the company is deemed to have continued in existence as if it had not been dissolved or struck off the register.

(2) The company is not liable to a penalty under section 426 for a financial year in relation to which the period for filing accounts and reports ended–

(a) after the date of dissolution or striking off, and

(b) before the restoration of the company to the register.

(3) The Court may give such directions and make such provision as seems just for placing the company and all other persons in the same position (as nearly as may be) as if the company had not been dissolved or struck off the register.

(4) The Court may also give directions as to–

(a) the delivery to the Registrar of such documents relating to the company as are necessary to bring up to date the records kept by the Registrar,

(b) the payment of the costs of the Registrar in connection with the proceedings for the restoration of the company to the register,

(c) where any property or right previously vested in or held on trust for the company has vested as *bona vacantia*, the payment of the costs of the Board–

(i) in dealing with the property during the period of dissolution, or

(ii) in connection with the proceedings on the application.

891. Company's name on restoration

(1) A company is restored to the register with the name it had before it was dissolved or struck off the register, subject to the following provisions.

(2) If at the date of restoration the company could not be registered under its former name without contravening section 55 (name not to be the same as another in the Registrar's register of company names), it must be restored to the register–

(a) under another name specified–

(i) in the case of administrative restoration, in the application to the Registrar, or

(ii) in the case of restoration under a Court order, in the Court's order, or

(b) as if its registered number was also its name.

References to a company's being registered in a name, and to registration in that context, shall be read as including the company's being restored to the register.

(3) If a company is restored to the register under a name specified in the application to the Registrar, the provisions of–

section 68 (change of name: registration and issue of new certificate of incorporation), and

section 69 (change of name: effect),

apply as if the application to the Registrar were notice of a change of name.

(4) If a company is restored to the register under a name specified in the Court's order, the provisions of–

section 68 (change of name: registration and issue of new certificate of incorporation), and

section 69 (change of name: effect),

apply as if the copy of the Court order delivered to the Registrar were notice of a change a name.

(5) If the company is restored to the register as if its registered number was also its name–

(a) the company must change its name within 14 days after the date of the restoration,

(b) the change may be made by resolution of the directors (without prejudice to any other method of changing the company's name),

(c) the company must give notice to the Registrar of the change, and

(d) sections 68 and 69 apply as regards the registration and effect of the change.

(6) If the company fails to comply with subsection 5(a) or (c) a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(7) A person who commits a contravention of these Regulations under subsection 6 shall be liable to a level 2 fine.

892. Effect of restoration to the register where property has vested as bona vacantia

(1) The person in whom any property or right is vested by section 876 (property of a dissolved company) may dispose of, or of an interest in, that property or right despite the fact that the company may be restored to the register under this Chapter.

(2) If the company is restored to the register–

(a) the restoration does not affect the disposition (but without prejudice to its effect in relation to any other property or right previously vested in or held on trust for the company), and

(b) the Board shall pay to the company an amount equal to–

(i) the amount of any consideration received for the property or right or, as the case may be, the interest in it, or

(ii) the value of any such consideration at the time of the disposition,

or, if no consideration was received an amount equal to the value of the property, right or interest disposed of, as at the date of the disposition.

(3) There may be deducted from the amount payable under subsection (2)(b) the reasonable costs of the Board in connection with the disposition (to the extent that they have not been paid as a condition of administrative restoration or pursuant to a Court order for restoration).

PART 30

INVESTIGATION OF COMPANIES AND THEIR AFFAIRS

Chapter 1

REQUISITION OF DOCUMENTS

Appointment and functions of inspectors

893. Investigation of a company on its own application or that of its members

(1) The Registrar may appoint one or more competent inspectors to investigate the affairs of a company and to report the results of their investigations to it.

(2) The appointment may be made—

(a) in the case of a company having a share capital, on the application either of not less than 200 members or of members holding not less than one-tenth of the shares issued (excluding any shares held as treasury shares),

(b) in the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members, and

(c) in any case, on application of the company.

(3) The application shall be supported by such evidence as the Registrar may require for the purpose of showing that the applicant or applicants have good reason for requiring the investigation.

(4) The Registrar may, before appointing inspectors, require the applicant or applicants to give security, to an amount not exceeding 10,000 US dollars, or such other sum as it may by specify in rules made under this section, for payment of the costs of the investigation.

894. Other company investigations[26]

(1) The Registrar shall appoint one or more competent inspectors to investigate the affairs of a company and report the result of their investigations to it, if the Court by order declares that its affairs ought to be so investigated.

(2) The Registrar may also, without a Court order, appoint one or more competent inspectors to investigate the affairs of the company and report the result of their investigations to it if it appears to the Registrar that there are circumstances suggesting—

(a) that the company's affairs are being or have been conducted with intent to defraud its creditors or the creditors of any other person, or otherwise for a fraudulent or unlawful purpose, or in a manner which is unfairly prejudicial to some part of its members, or

[26] Amended 23 February 2023

(b) that any actual or proposed act or omission of the company (including an act or omission on its behalf) is or would be so prejudicial, or that the company was formed for any fraudulent or unlawful purpose, or

(c) that persons concerned with the company's formation or the management of its affairs have in connection therewith committed fraud, misfeasance or other misconduct towards it or towards its members, or

(d) that the company's members have not been given all the information with respect to its affairs which they might reasonably expect.

(3) Inspectors may be appointed under subsection (2) on terms that any report they may make is not for publication, and in such a case, the provisions of section 898(3) (availability and publication of inspectors' reports) do not apply.

(4) Subsections (1) and (2) are without prejudice to the powers of the Registrar under section 893, and the power conferred by subsection (2) is exercisable with respect to a body corporate notwithstanding that it is in course of being voluntarily wound up.

(5) The reference in subsection (3) to a company's members includes any person who is not a member but to whom shares in the company have been transferred or transmitted by operation of law.

895. Inspectors' powers during investigation.

If inspectors appointed under section 893 or 894 to investigate the affairs of a company think it necessary for the purposes of their investigation to investigate also the affairs of another body corporate which is or at any relevant time has been the company's subsidiary or holding company, or a subsidiary of its holding company or a holding company of its subsidiary, they have power to do so, and they shall report on the affairs of the other body corporate so far as they think that the results of their investigation of its affairs are relevant to the investigation of the affairs of the company first mentioned above.

896. Production of documents and evidence to inspectors.

(1) When inspectors are appointed under section 893 or 894, it is the duty of all officers and agents of the company, and of all officers and agents of any other body corporate whose affairs are investigated —

(a) to produce to the inspectors all documents of or relating to the company or, as the case may be, the other body corporate which are in their custody or power,

(b) to attend before the inspectors when required to do so, and

(c) otherwise to give the inspectors all assistance in connection with the investigation which they are reasonably able to give.

(2) If the inspectors consider that an officer or agent of the company or other body corporate, or any other person, is or maybe in possession of information relating to a matter which they believe to be relevant to the investigation, they may require him—

(a) to produce to them any documents in his custody or power relating to that matter,

(b) to attend before them, and

(c) otherwise to give them all assistance in connection with the investigation which he is reasonably able to give,

and it is that person's duty to comply with the requirement.

(3) An inspector may for the purposes of the investigation examine any person on oath, and may administer an oath accordingly.

(4) In this section a reference to officers or to agents includes past, as well as present, officers or agents (as the case may be), and "agents", in relation to a company or other body corporate, includes its bankers and solicitors and persons employed by it as auditors, whether these persons are or are not officers of the company or other body corporate.

(5) An answer given by a person to a question put to him in exercise of powers conferred by this section (whether as it has effect in relation to an investigation under any of sections 893 to 895, or as applied by any other section in this Part) may be used in evidence against him.

(6) In this section "document" includes information recorded in any form.

(7) The power under this section to require production of a document includes power, in the case of a document not in hard copy form, to require the production of a copy of the document—

(a) in hard copy form, or

(b) in a form from which a hard copy can be readily obtained.

(8) An inspector may take copies of or extracts from a document produced in pursuance of this section.

897. Obstruction of inspectors treated as contempt of Court

(1) If any person—

(a) fails to comply with section 896(1)(a) or 896(1)(c),

(b) refuses to comply with a requirement under section 896(1)(b) or 896(2), or

(c) refuses to answer any question put to him by the inspectors for the purposes of the investigation,

the inspectors may certify that fact in writing to the Court.

(2) The Court may thereupon enquire into the case, and, after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement which may be offered in defence, the Court may punish the offender in like manner as if he had committed contempt of the Court.

Inspectors' reports

898. Inspectors' reports

(1) The inspectors may, and if so directed by the Registrar shall, make interim reports to the Registrar, and on the conclusion of their investigation shall make a final report to it.

(2) Any persons who have been appointed under section 893 or 894 may at any time and, if the Registrar directs them to do so, shall inform it of any matters coming to their knowledge as a result of their investigations.

(3) If the inspectors were appointed under section 894 in pursuance of an order of the Court, the Registrar shall furnish a copy of any report of theirs to the Court.

(4) In any case the Registrar may, if it thinks fit—

(a) forward a copy of any report made by the inspectors to the company's registered office,

(b) furnish a copy on request and on payment of the prescribed fee to—

(i) any member of the company or other body corporate which is the subject of the report,

(ii) any person whose conduct is referred to in the report,

(iii) the auditors of that company or body corporate,

(iv) the applicants for the investigation,

(v) the Financial Services Regulator,

(vi) any other person whose financial interests appear to the Board to be affected by the matters dealt with in the report, whether as a creditor of the company or body corporate, or otherwise, and

(c) cause any such report to be printed and published.

899. Expenses of investigating a company's affairs

(1) The expenses of an investigation under any of the powers conferred by this Part shall be defrayed in the first instance by the Registrar, but it may recover those expenses from the persons liable in accordance with this section.

There shall be treated as expenses of the investigation, in particular, such reasonable sums as the Registrar may determine in respect of general staff costs and overheads.

(2) A person who is found to have committed a contravention of these Regulations in proceedings instituted as a result of the investigation may in the same proceedings be ordered to pay those expenses to such extent as may be specified in the order.

(3) A body corporate dealt with by an inspectors' report, where the inspectors were appointed otherwise than of the Registrar's own motion, is liable except where it was the applicant for the investigation, and except so far as the Registrar otherwise directs.

(4) Where inspectors were appointed—

(a) under section 893, or

(b) on an application under section 901(3),

the applicant or applicants for the investigation is or are liable to such extent (if any) as the Registrar may direct.

(5) The report of inspectors appointed otherwise than of the Registrar's own motion may, if they think fit, and shall if the Registrar so directs, include a recommendation as to the directions (if any) which they think appropriate, in the light of their investigation, to be given under subsection (4) or (5) of this section.

(6) Any liability to repay the Registrar imposed by subsection (2) above is (subject to satisfaction of his right to repayment) a liability also to indemnify all persons against liability under subsections (4) and (5).

(7) A person liable under any one of those subsections is entitled to contribution from any other person liable under the same subsection, according to the amount of their respective liabilities under it.

900. Inspectors' report to be evidence

(1) A copy of any report of inspectors appointed under this Part, certified by the Registrar to be a true copy, is admissible in any legal proceedings as evidence of the opinion of the inspectors in relation to any matter contained in the report and, in proceedings relating to disqualification of a company director, as evidence of any fact stated therein.

(2) A document purporting to be such a certificate as is mentioned above shall be received in evidence and be deemed to be such a certificate, unless the contrary is proved.

901. Power to investigate company ownership

(1) Where it appears to the Registrar that there is good reason to do so, it may appoint one or more competent inspectors to investigate and report on the membership of any company, and otherwise with respect to the company, for the purpose of determining the true persons who are or have been financially interested in the success or failure (real or apparent) of the company or able to control or materially to influence its policy.

(2) If an application for investigation under this section with respect to particular shares or debentures of a company is made to the Registrar by members of the company, and the number of applicants or the amount of shares held by them is not less than that required for an application for the appointment of inspectors under section 893(2)(a) or 893(2)(b), then, subject to the following provisions, the Registrar shall appoint inspectors to conduct the investigation applied for.

(3) The Registrar shall not appoint inspectors if it is satisfied that the application is vexatious, and where inspectors are appointed their terms of appointment shall exclude any matter in so far as the Registrar is satisfied that it is unreasonable for it to be investigated.

(4) The Registrar may, before appointing inspectors, require the applicant or applicants to give security, to an amount not exceeding 10,000 US dollars, or such other sum as it may by order specify, for payment of the costs of the investigation.

An order under this subsection shall be made by Resolution.

(5) If on an application under subsection (3) it appears to the Registrar that the powers conferred by section 903 are sufficient for the purposes of investigating the matters which inspectors would be appointed to investigate, it may instead conduct the investigation under that section.

(6) Subject to the terms of their appointment, the inspectors' powers extend to the investigation of any circumstances suggesting the existence of an arrangement or understanding which, though not legally binding, is or was observed or likely to be observed in practice and which is relevant to the purposes of the investigation.

902. Provisions applicable on investigation under section 901

(1) For purposes of an investigation under section 901, sections 895, 896, 897 and 898 apply with the necessary modifications of references to the affairs of the company or to those of any other body corporate, subject however to the following subsections.

(2) Those sections apply to—

(a) all persons who are or have been, or whom the inspector has reasonable cause to believe to be or have been, financially interested in the success or failure or the apparent success or failure of the company or any other body corporate whose membership is investigated with that of the company, or able to control or materially influence its policy (including persons concerned only on behalf of others), and

(b) any other person whom the inspector has reasonable cause to believe possesses information relevant to the investigation,

as they apply in relation to officers and agents of the company or the other body corporate (as the case may be).

(3) If the Registrar is of opinion that there is good reason for not divulging any part of a report made by virtue of section 901 and this section, it may under section 898 disclose the report with the omission of that part, and it may cause to be kept by the Registrar of companies a copy of the report with that part omitted or, in the case of any other such report, a copy of the whole report.

903. Power to obtain information as to those interested in shares, etc.

(1) If it appears to the Registrar that there is good reason to investigate the ownership of any shares in or debentures of a company and that it is unnecessary to appoint inspectors for the purpose, it may require any person whom it has reasonable cause to believe to have or to be able to obtain any information as to the present and past interests in those shares or debentures and the names and addresses of the persons interested and of any persons who act or have acted on their behalf in relation to the shares or debentures to give any such information to the Registrar.

(2) For this purpose a person is deemed to have an interest in shares or debentures if he has any right to acquire or dispose of them or of any interest in them, or to vote in respect of them, or if his consent is necessary for the exercise of any of the rights of other persons interested in them, or if other persons interested in them can be required, or are accustomed, to exercise their rights in accordance with his instructions.

(3) A person who fails to give information required of him under this section, or who in giving such information makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, commits a contravention of these Regulations.

(4) A person who is found to have committed a contravention under this section shall be liable to a fine of up to level 8.

904. Power to impose restrictions on shares and debentures

(1) If in connection with an investigation under either section 901 or 903 it appears to the Registrar that there is difficulty in finding out the relevant facts about any shares (whether issued or to be issued), it may by order direct that the shares shall until further order be subject to the restrictions of Chapter 2 of this Part.

(2) If the Registrar is satisfied that an order under subsection (1) may unfairly affect the rights of third parties in respect of shares then the Registrar, for the purpose of protecting such rights and subject to such terms as it thinks fit, may direct that such acts by such persons or descriptions of persons and for such purposes as may be set out in the order, shall not constitute a breach of the restrictions of Chapter 2 of this Part.

(3) This section, and Chapter 2 in its application to orders under it, apply in relation to debentures as in relation to shares save that subsection (2) shall not so apply.

905. General powers to give directions

(1) In exercising his functions an inspector shall comply with any direction given to him by the Registrar under this section.

(2) The Registrar may give an inspector appointed under section 893, 894(2)or 901(1) a direction–

(a) as to the subject matter of his investigation (whether by reference to a specified area of a company's operation, a specified transaction, a period of time or otherwise), or

(b) which requires the inspector to take or not to take a specified step in his investigation.

(3) The Registrar may give an inspector appointed under any provision of this Part a direction requiring it to secure that a specified report under section 898 –

(a) includes the inspector's views on a specified matter,

(b) does not include any reference to a specified matter,

(c) is made in a specified form or manner, or

(d) is made by a specified date.

(4) A direction under this section–

(a) may be given on an inspector's appointment,

(b) may vary or revoke a direction previously given, and

(c) may be given at the request of an inspector.

(5) In this section–

(a) a reference to an inspector's investigation includes any investigation he undertakes, or could undertake, under section 895 (power to investigate affairs of holding company or subsidiary),

(b) "specified" means specified in a direction under this section.

906. Direction to terminate investigation

(1) The Registrar may direct an inspector to take no further steps in his investigation.

(2) The Registrar may give a direction under this section to an inspector appointed under section 894(1)or 901(3) only on the grounds that it appears to it that–

(a) matters have come to light in the course of the inspector's investigation which suggest that a contravention of these Regulations or any other law of regulation applicable in the Abu Dhabi Global Market has been committed, and

(b) those matters have been referred to the appropriate prosecuting authority.

(3) Where the Registrar gives a direction under this section, any direction already given to the inspector under section 898(1) to produce an interim report, and any direction given to him under section 905(3) in relation to such a report, shall cease to have effect.

(4) Where the Registrar gives a direction under this section, the inspector shall not make a final report to the Registrar unless–

(a) the direction was made on the grounds mentioned in subsection (2) and the Board directs the inspector to make a final report to it, or

(b) the inspector was appointed under section 894(1)(appointment in pursuance of order of the Court).

(5) An inspector shall comply with any direction given to him under this section.

(6) In this section, a reference to an inspector's investigation includes any investigation he undertakes, or could undertake, under section 895 (power to investigate affairs of holding company or subsidiary).

Resignation, removal and replacement of inspectors

907. Resignation and revocation of appointment

(1) An inspector may resign by notice in writing to the Registrar.

(2) The Registrar may revoke the appointment of an inspector by notice in writing to the inspector.

908. Appointment of replacement inspectors

(1) Where–

(a) an inspector resigns,

(b) an inspector's appointment is revoked, or

(c) an inspector dies,

the Registrar may appoint one or more competent inspectors to continue the investigation.

(2) An appointment under subsection (1) shall be treated for the purposes of this Part (apart from this section) as an appointment under the provision of this Part under which the former inspector was appointed.

(3) The Registrar must exercise its power under subsection (1) so as to secure that at least one inspector continues the investigation.

(4) Subsection (3) does not apply if–

(a) the Registrar could give any replacement inspector a direction under section 906 (termination of investigation), and

(b) such a direction would (under subsection (4) of that section) result in a final report not being made.

(5) In this section, references to an investigation include any investigation the former inspector conducted under section 895 (power to investigate affairs of holding company or subsidiary).

Power to obtain information from former inspectors etc.

909. Obtaining information from former inspectors etc.

(1) This section applies to a person who was appointed as an inspector under this Part–

(a) who has resigned, or

(b) whose appointment has been revoked.

(2) This section also applies to an inspector to whom the Registrar has given a direction under section 906 (termination of investigation).

(3) The Registrar may direct a person to whom this section applies to produce documents obtained or generated by that person during the course of his investigation to–

(a) the Registrar,

(b) the Financial Services Regulator, or

(c) an inspector appointed under this Part.

(4) The power under subsection (3) to require production of a document includes power, in the case of a document not in hard copy form, to require the production of a copy of the document–

(a) in hard copy form, or

(b) in a form from which a hard copy can be readily obtained.

(5) The Registrar may take copies of or extracts from a document produced in pursuance of this section.

(6) The Registrar may direct a person to whom this section applies to inform it of any matters that came to that person's knowledge as a result of his investigation.

(7) A person shall comply with any direction given to him under this section.

(8) In this section–

(a) references to the investigation of a former inspector or inspector include any investigation he conducted under section 895 (power to investigate affairs of holding company or subsidiary), and

(b) "document" includes information recorded in any form.

910. Registrar's power to require production of documents

(1) The Registrar may act under subsections (2) and (3) in relation to a company.

(2) The Registrar may give directions to the company requiring it−

(a) to produce such documents (or documents of such description) as may be specified in the directions,

(b) to provide such information (or information of such description) as may be so specified.

(3) The Registrar may authorise a person (an investigator) to require the company or any other person−

(a) to produce such documents (or documents of such description) as the investigator may specify,

(b) to provide such information (or information of such description) as the investigator may specify.

(4) A person on whom a requirement under subsection (3) is imposed may require the investigator to produce evidence of his authority.

(5) A requirement under subsection (2) or (3) must be complied with at such time and place as may be specified in the directions or by the investigator (as the case may be).

(6) The production of a document in pursuance of this section does not affect any lien which a person has on the document.

(7) The Registrar or the investigator (as the case may be) may take copies of or extracts from a document produced in pursuance of this section.

(8) The power under this section to require production of a document includes power, in the case of a document not in hard copy form, to require the production of a copy of the document−

(a) in hard copy form, or

(b) in a form from which a hard copy can be readily obtained.

(9) Any person who fails without reasonable excuse to comply with any requirement imposed in accordance with this section commits a contravention of these Regulations.

(10) A person who commits a contravention under this section shall be liable to a fine of up to level 7.

(11) For the purposes of sections 912 and 915 (provision for security of information) documents obtained under this section shall be treated as if they had been obtained under the provision of this Part under which their production was or, as the case may be, could have been required.

(12) In this section "document" includes information recorded in any form.

(13) A statement made by a person in compliance with a requirement under section 910 may be used in evidence against him.

911. Protection in relation to certain disclosures: information provided to Registrar

(1) A person who makes a relevant disclosure is not liable by reason only of that disclosure in any proceedings relating to a breach of an obligation of confidence.

(2) A relevant disclosure is a disclosure which satisfies each of the following conditions–

(a) it is made to the Registrar otherwise than in compliance with a requirement under this Part,

(b) it is of a kind that the person making the disclosure could be required to make in pursuance of this Part,

(c) the person who makes the disclosure does so in good faith and in the reasonable belief that the disclosure is capable of assisting the Registrar for the purposes of the exercise of his functions under this Part,

(d) the information disclosed is not more than is reasonably necessary for the purpose of assisting the Registrar for the purposes of the exercise of those functions,

(e) the disclosure is not one falling within subsection (3) or (4).

(3) A disclosure falls within this subsection if the disclosure is prohibited by virtue of any law or regulation applicable in the Abu Dhabi Global Market whenever passed or made.

(4) A disclosure falls within this subsection if–

(a) it is made by a person carrying on the business of banking or by a lawyer, and

(b) it involves the disclosure of information in respect of which he owes an obligation of confidence in that capacity.

912. Provision for security of information obtained

(1) This section applies to information (in whatever form) obtained–

(a) in pursuance of a requirement imposed under section 910,

(b) by means of a relevant disclosure within the meaning of section 911(2),

(c) by an investigator in consequence of the exercise of his powers under section 918.

(2) Such information must not be disclosed unless the disclosure–

(a) is made to such persons as the Board may designate in rules made by resolution, or

(b) is of such a description as the as the Board may designate in rules made by resolution.

(3) A person who discloses any information in contravention of this section commits a contravention of these Regulations.

(4) A person who commits a contravention under this section shall be liable to a fine of up to level 7.

(5) Any information which may by virtue of this section be disclosed to a person specified in subsection 2(b) may be disclosed to any officer or employee of the person.

(6) This section does not prohibit the disclosure of information if the information is or has been available to the public from any other source.

(7) For the purposes of this section, information obtained by an investigator in consequence of the exercise of his powers under section 918 includes information obtained by a person accompanying the investigator in pursuance of subsection (4) of that section in consequence of that person's accompanying the investigator.

(8) Nothing in this section authorises the making of a disclosure in contravention of applicable data protection legislation.

913. Punishment for destroying, mutilating etc. company documents

(1) An officer or agent of a company who−

(a) destroys, mutilates or falsifies, or is privy to the destruction, mutilation or falsification of a document affecting, or relating to the company's property or affairs, or

(b) makes, or is privy to the making of, a false entry in such a document,

commits a contravention of these Regulations, unless he proves that he had no intention to conceal the state of affairs of the company or to defeat the law.

(2) Such a person as above mentioned who fraudulently either parts with, alters or makes an omission in any such document or is privy to fraudulent parting with, fraudulent altering or fraudulent making of an omission in, any such document, commits a contravention of these Regulations.

(3) A person who is found to have committed contravention under this section shall be liable to a fine of up to level 8.

(4) In this section "document" includes information recorded in any form.

914. Punishment for furnishing false information

(1) A person commits a contravention of these Regulations if in purported compliance with a requirement under section 910 to provide information−

(a) he provides information which he knows to be false in a material particular,

(b) he recklessly provides information which is false in a material particular.

(2) A person who commits a contravention of this section shall be liable to a fine of up to level 7.

915. Disclosure of information by Board or inspector

(1) This section applies to information obtained−

(a) under sections 896 to 909,

(b) by an inspector in consequence of the exercise of his powers under section 918.

(2) The Registrar may, if it thinks fit−

(a) disclose any information to which this section applies−

(i) to any person to whom, or for any purpose for which, disclosure is permitted under section 446, or

(ii) to the Financial Services Regulator,

(b) authorise or require an inspector appointed under this Part to disclose such information to any such person or for any such purpose.

(3) Information to which this section applies may also be disclosed by an inspector appointed under this Part to−

(a) another inspector appointed under this Part, or

(b) a person authorised to exercise powers under−

(i) section 910 of these Regulations, or

(ii) section 927 of these Regulations (exercise of powers to assist non-Abu Dhabi Global Market regulatory authority).

(4) Any information which may by virtue of subsection (3) be disclosed to any person may be disclosed to any officer or servant of that person.

(5) The Registrar may, if it thinks fit, disclose any information obtained under section 903 to—

(a) the company whose ownership was the subject of the investigation,

(b) any member of the company,

(c) any person whose conduct was investigated in the course of the investigation,

(d) the auditors of the company, or

(e) any person whose financial interests appear to the Registrar to be affected by matters covered by the investigation.

(6) For the purposes of this section, information obtained by an inspector in consequence of the exercise of his powers under section 918 includes information obtained by a person accompanying the inspector in pursuance of subsection (4) of that section in consequence of that person's accompanying the inspector.

(7) The reference to an inspector in subsection (2)(b) above includes a reference to a person accompanying an inspector in pursuance of section 918.

Supplementary

916. Privileged information

(1) Nothing in sections 893 to 909 compels the disclosure by any person to the Registrar or to an inspector appointed by the Registrar of information in respect of which a claim to legal professional privilege could be maintained.

(2) Nothing in section 896, 901 or 903 requires a person (except as mentioned in subsection (3) below) to disclose information or produce documents in respect of which he owes an obligation of confidence by virtue of carrying on the business of banking unless—

(a) the person to whom the obligation of confidence is owed is the company or other body corporate under investigation,

(b) the person to whom the obligation of confidence is owed consents to the disclosure or production, or

(c) the making of the requirement is authorised by the Registrar.

(3) Subsection (2) does not apply where the person owing the obligation of confidence is the company or other body corporate under investigation under section 893, 894 or 895.

(4) Nothing in sections 910 to 914—

(a) compels the production by any person of a document or the disclosure by any person of information in respect of which a claim to legal professional privilege could be maintained,

(b) authorises the taking of possession of any such document which is in the person's possession.

(5) The Registrar must not under section 910 require, or authorise a person to require—

(a) the production by a person carrying on the business of banking of a document relating to the affairs of a customer of his, or

(b) the disclosure by it of information relating to those affairs,

unless one of the conditions in subsection (6) is met.

(6) The conditions are—

(a) the Registrar thinks it is necessary to do so for the purpose of investigating the affairs of the person carrying on the business of banking,

(b) the customer is a person on whom a requirement has been imposed under section 910,

(c) the customer is a person on whom a requirement to produce information or documents has been imposed by an investigator appointed by the Registrar.

(7) Despite subsections (1) and (2) a person who is a lawyer may be compelled to disclose the name and address of his client

917. Investigation of non-Abu Dhabi Global Market companies

(1) The provisions of this Part apply to bodies corporate incorporated outside the Abu Dhabi Global Market which are carrying on business in the Abu Dhabi Global Market under the auspices of a licence granted under the Commercial Licensing Regulations 2015, or have at any time carried on business there, as they apply to companies under these Regulations, but subject to the following exceptions, adaptations and modifications.

(2) The following provisions do not apply to such bodies—

(a) section 893 (investigation on application of company or its members),

(b) sections 901 to 903 (investigation of company ownership and power to obtain information as to those interested in shares, etc).

(3) The other provisions of this Part apply to such bodies subject to such adaptations and modifications as may be specified by rules made by the Board by resolution.

918. Power to enter and remain on premises

(1) An inspector or investigator may act under subsection (2) in relation to a company if–

(a) he is authorised to do so by the Registrar, and

(b) he thinks that to do so will materially assist him in the exercise of his functions under this Part in relation to the company.

(2) An inspector or investigator may at all reasonable times–

(a) require entry to relevant premises, and

(b) remain there for such period as he thinks necessary for the purpose mentioned in subsection (1)(b).

(3) Relevant premises are premises which the inspector or investigator believes are used (wholly or partly) for the purposes of the company's business.

(4) In exercising his powers under subsection (2), an inspector or investigator may be accompanied by such other persons as he thinks appropriate.

(5) A person who intentionally obstructs a person lawfully acting under subsection (2) or (4) commits a contravention of these Regulations and shall be liable to a fine of up to level 5.

(6) An inspector is a person appointed under section 893, 894 or 901.

(7) An investigator is a person authorised for the purposes of section 910.

919. Power to enter and remain on premises: procedural

(1) This section applies for the purposes of section 918.

(2) The requirements of subsection (3) must be complied with at the time an inspector or investigator seeks to enter relevant premises under section 918.

(3) The requirements are–

(a) the inspector or investigator must produce evidence of his identity and evidence of his appointment or authorisation (as the case may be),

(b) any person accompanying the inspector or investigator must produce evidence of his identity.

(4) The inspector or investigator must, as soon as practicable after obtaining entry, give to an appropriate recipient a written statement containing such information as to–

(a) the powers of the investigator or inspector (as the case may be) under section 918,

(b) the rights and obligations of the company, occupier and the persons present on the premises,

as may be prescribed by rules made by the Registrar.

(5) If during the time the inspector or investigator is on the premises there is no person present who appears to him to be an appropriate recipient for the purposes of subsection (8), the inspector or investigator must as soon as reasonably practicable send to the company–

(a) a notice of the fact and time that the visit took place, and

(b) the statement mentioned in subsection (4).

(6) As soon as reasonably practicable after exercising his powers under section 918, the inspector or investigator must prepare a written record of the visit and–

(a) if requested to do so by the company he must give it a copy of the record,

(b) in a case where the company is not the sole occupier of the premises, if requested to do so by an occupier he must give the occupier a copy of the record.

(7) The written record must contain such information as may be prescribed by regulations.

(8) If the inspector or investigator thinks that the company is the sole occupier of the premises an appropriate recipient is a person who is present on the premises and who appears to the inspector or investigator to be–

(a) an officer of the company, or

(b) a person otherwise engaged in the business of the company if the inspector or investigator thinks that no officer of the company is present on the premises.

(9) If the inspector or investigator thinks that the company is not the occupier or sole occupier of the premises an appropriate recipient is–

(a) a person who is an appropriate recipient for the purposes of subsection (8), and (if different)

(b) a person who is present on the premises and who appears to the inspector or investigator to be an occupier of the premises or otherwise in charge of them.

920. Failure to comply with certain requirements

(1) This section applies if a person fails to comply with a requirement imposed by an inspector, the Registrar or an investigator in pursuance of either of the following provisions–

(a) section 910,

(b) section 918.

(2) The inspector, Registrar or investigator (as the case may be) may certify the fact in writing to the Court.

(3) If, after hearing–

(a) any witnesses who may be produced against or on behalf of the alleged offender,

(b) any statement which may be offered in defence,

the Court is satisfied that the offender failed without reasonable excuse to comply with the requirement, it may deal with him as if he had committed contempt of the Court.

921. Contraventions by bodies corporate

Where a contravention of these Regulations occurs under any of sections 912, 914 and 918, is committed by a body corporate, every officer of the body who is in default also commits the contravention.

For this purpose—

(a) any person who purports to act as director, manager or secretary of the body is treated as an officer of the body, and

(b) if the body is a company, any shadow director is treated as an officer of the company.

Chapter 2

ORDERS IMPOSING RESTRICTIONS ON SHARES (SECTION 904)

922. Consequence of order imposing restrictions

(1) So long as any shares are directed to be subject to the restrictions of this Part then, subject to any directions made in relation to an order pursuant to section 904 or 924−

(a) any transfer of those shares or, in the case of unissued shares, any transfer of the right to be issued with them, and any issue of them, is void,

(b) no voting rights are exercisable in respect of the shares,

(c) no further shares shall be issued in right of them or in pursuance of any offer made to their holder, and

(d) except in a liquidation, no payment shall be made of any sums due from the company on the shares, whether in respect of capital or otherwise.

(2) Where shares are subject to the restrictions of subsection (1)(a), any agreement to transfer the shares or, in the case of unissued shares, the right to be issued with them is void (except such agreement or right as may be made or exercised under the terms of directions made by the Registrar or the Court under section 904 or 924 or an agreement to transfer the shares on the making of an order under section 924(4)(b) below).

(3) Where shares are subject to the restrictions of subsection (1)(c) or (d), an agreement to transfer any right to be issued with other shares in right of those shares, or to receive any payment on them (otherwise than in a liquidation) is void (except such agreement or right as may be made or exercised under the terms of directions made by the Registrar or the Court under section 904 or 924 or an agreement to transfer any such right on the transfer of the shares on the making of an order under section 924(4)(b) below).

923. Punishment for attempted evasion of restrictions

(1) Subject to the terms of any directions made under section 904 or 924 a person commits a contravention of these Regulations if he −

(a) exercises or purports to exercise any right to dispose of any shares which, to his knowledge, are for the time being subject to the restrictions of this Part or of any right to be issued with any such shares, or

(b) votes in respect of any such shares (whether as holder or proxy), or appoints a proxy to vote in respect of them, or

(c) being the holder of any such shares, fails to notify of their being subject to those restrictions any person whom he does not know to be aware of that fact but does know to be entitled (apart from the restrictions) to vote in respect of those shares whether as holder or as proxy, or

(d) being the holder of any such shares, or being entitled to any right to be issued with other shares in right of them, or to receive any payment on them (otherwise than in a liquidation), enters into any agreement which is void under section 922(2) or 922(3).

(2) Subject to the terms of any directions made under section 904 or 924 if shares in a company are issued in contravention of the restrictions, a contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(3) A person who commits a contravention of these Regulations under this section shall be liable to a level 3 fine.

924. Relaxation and removal of restrictions

(1) Where shares in a company are by order made subject to the restrictions of this Part, application may be made to the Court for an order directing that the shares be no longer so subject.

(2) Where the Court is satisfied that an order subjecting the shares to the restrictions of this Part unfairly affects the rights of third parties in respect of shares then the Court, for the purpose of protecting such rights and subject to such terms as it thinks fit and in addition to any order it may make under subsection (1), may direct on an application made under that subsection that such acts by such persons or descriptions of persons and for such purposes, as may be set out in the order, shall not constitute a breach of the restrictions of this Chapter.

Subsection (4) does not apply to an order made under this subsection.

(3) If the order applying the restrictions was made by the Registrar, or it has refused to make an order disapplying them, the application may be made by any person aggrieved.

(4) Subject as follows, an order of the Court or the Registrar directing that shares shall cease to be subject to the restrictions may be made only if—

(a) the Court or (as the case may be) the Registrar is satisfied that the relevant facts about the shares have been disclosed to the company and no unfair advantage has accrued to any person as a result of the earlier failure to make that disclosure, or

(b) the shares are to be transferred for valuable consideration and the Court (in any case) or the Registrar (if the order was made under section 904) approves the transfer.

(5) Without prejudice to the power of the Court to give directions under subsection (2), where shares in a company are subject to the restrictions, the Court may on application order the shares to be sold, subject to the Court's approval as to the sale, and may also direct that the shares shall cease to be subject to the restrictions.

An application to the Court under this subsection may be made by the Registrar or by the company.

(6) Where an order has been made under subsection (5), the Court may on application make such further order relating to the sale or transfer of the shares as it thinks fit.

An application to the Court under this subsection may be made—

(a) by the Registrar, or

(b) by the company, or

(c) by the person appointed by or in pursuance of the order to effect the sale, or

(d) by any person interested in the shares.

(7) An order (whether of the Registrar or the Court) directing that shares shall cease to be subject to the restrictions of this Part, if it is—

(a) expressed to be made with a view to permitting a transfer of the shares, or

(b) made under subsection (5) of this section,

may continue the restrictions mentioned in paragraphs (c) and (d) of section 924, either in whole or in part, so far as they relate to any right acquired or offer made before the transfer.

(8) Subsection (4) does not apply to an order directing that shares shall cease to be subject to any restrictions which have been continued in force in relation to those shares under subsection (7).

925. Further provisions on sale by Court order of restricted shares

(1) Where shares are sold in pursuance of an order of the Court under section 924(4) the proceeds of sale, less the costs of the sale, shall be paid into Court for the benefit of the persons who are beneficially interested in the shares, and any such person may apply to the Court for the whole or part of those proceeds to be paid to him.

(2) On application under subsection (1) the Court shall (subject as provided below) order the payment to the applicant of the whole of the proceeds of sale together with any interest thereon or, if any other person had a beneficial interest in the shares at the time of their sale, such proportion of those proceeds and interest as is equal to the proportion which the value of the applicant's interest in the shares bears to the total value of the shares.

(3) On granting an application for an order under section 924(4) or 924(5) the Court may order that the applicant's costs be paid out of the proceeds of sale, and if that order is made, the applicant is entitled to payment of his costs out of those proceeds before any person interested in the shares in question receives any part of those proceeds.

Chapter 3

INVESTIGATIONS AND POWERS TO OBTAIN INFORMATION

Powers exercisable to assist non-Abu Dhabi Global Market regulatory authorities

926. Request for assistance by non-Abu Dhabi Global Market regulatory authority

(1) The powers conferred by section 927 are exercisable by the Registrar for the purpose of assisting a non-Abu Dhabi Global Market regulatory authority which has requested his assistance in connection with inquiries being carried out by it or on its behalf.

(2) A "non-Abu Dhabi Global Market regulatory authority" means an authority which in a country or territory outside the Abu Dhabi Global Market exercises—

(a) any function corresponding to any function of the Registrar or the Board under these Regulations, or

(b) any function prescribed for the purposes of this subsection by order of the Board, being a function which in the opinion of the Board relates to companies or financial services.

(3) The Registrar shall not exercise the powers conferred by section 927 unless it and the corresponding Abu Dhabi Global Market regulatory body are is satisfied that the assistance requested by the non-Abu Dhabi Global Market regulatory authority is for the purposes of its regulatory functions.

An authority's "regulatory functions" means any functions falling within subsection (2) and any other functions relating to companies or financial services.

(4) In deciding whether to exercise those powers the Registrar may take into account, in particular—

(a) whether corresponding assistance would be given in that country or territory to an authority exercising regulatory functions in the Abu Dhabi Global Market,

(b) whether the inquiries relate to the possible breach of a law, or other requirement, which has no close parallel in the Abu Dhabi Global Market or involves the assertion of a jurisdiction not recognised by the Abu Dhabi Global Market,

(c) the seriousness of the matter to which the inquiries relate, the importance to the inquiries of the information sought in the Abu Dhabi Global Market and whether the assistance could be obtained by other means,

(d) whether it is otherwise appropriate in the public interest to give the assistance sought.

(5) The Registrar may decline to exercise those powers unless the non-Abu Dhabi Global Market regulatory authority undertakes to make such contribution towards the costs of their exercise as the Registrar considers appropriate.

(6) References in this section to financial services include, in particular, investment business, insurance and banking.

927. Power to require information, documents or other assistance

(1) The following powers may be exercised in accordance with section 926, if the Registrar considers there is good reason for their exercise.

(2) The Registrar may require any person—

(a) to attend before it at a specified time and place and answer questions or otherwise furnish information with respect to any matter relevant to the inquiries,

(b) to produce at a specified time and place any specified documents which appear to the Registrar to relate to any matter relevant to the inquiries, and

(c) otherwise to give it such assistance in connection with the inquiries as he is reasonably able to give.

(3) The Registrar may examine a person on oath and may administer an oath accordingly.

(4) Where documents are produced the Registrar may take copies or extracts from them.

(5) A person shall not under this section be required to disclose information or produce a document which he would be entitled to refuse to disclose or produce on grounds of legal professional privilege in Court proceedings, except that a lawyer may be required to furnish the name and address of his client.

(6) A statement by a person in compliance with a requirement imposed under this section may be used in evidence against him.

(7) Where a person claims a lien on a document, its production under this section is without prejudice to his lien.

(8) In this section "documents" includes information recorded in any form, and, in relation to information recorded otherwise than in legible form, the power to require its production includes power to require the production of a copy of it in legible form.

928. Exercise of powers by officer, etc.

(1) The Registrar may authorise any of its officers or any other competent person to exercise on his behalf all or any of the powers conferred by section 927.

(2) No such authority shall be granted except for the purpose of investigating—

(a) the affairs, or any aspects of the affairs, of a person specified in the authority, or

(b) a subject-matter so specified,

being a person who, or subject-matter which, is the subject of the inquiries being carried out by or on behalf of the non-Abu Dhabi Global Market regulatory authority.

(3) No person shall be bound to comply with a requirement imposed by a person exercising powers by virtue of an authority granted under this section unless he has, if required, produced evidence of his authority.

(4) A person shall not by virtue of an authority under this section be required to disclose any information or produce any documents in respect of which he owes an obligation of confidence by virtue of carrying on the business of banking unless—

(a) the imposing on him of a requirement with respect to such information or documents has been specifically authorised by the Registrar, or

(b) the person to whom the obligation of confidence is owed consents to the disclosure or production.

In this subsection "documents" has the same meaning as in section 927.

(5) Where the Registrar authorises a person other than one of his officers to exercise any powers by virtue of this section, that person shall make a report to the Registrar in such manner as it may require on the exercise of those powers and the results of exercising them.

929. Penalty for failure to comply with requirement, etc.

(1) A person who without reasonable excuse fails to comply with a requirement imposed on him under section 927 commits a contravention of these Regulations and shall be liable to a fine of up to level 7.

(2) A person who in purported compliance with any such requirement furnishes information which he knows to be false or misleading in a material particular, or recklessly furnishes information which is false or misleading in a material particular, commits a contravention of these Regulations and shall be liable to a fine of up to level 8.

930. Restrictions on disclosure of information

(1) This section applies to information relating to the business or other affairs of a person which—

(a) is supplied by a non-Abu Dhabi Global Market regulatory authority in connection with a request for assistance, or

(b) is obtained by virtue of the powers conferred by section 927, whether or not any requirement to supply it is made under that section.

(2) Except as permitted by section 931 below, such information shall not be disclosed for any purpose—

(a) by the primary recipient, or

(b) by any person obtaining the information directly or indirectly from him,

without the consent of the person from whom the primary recipient obtained the information and, if different, the person to whom it relates.

(3) The "primary recipient" means, as the case may be−

(a) the Registrar,

(b) the Board,

(c) any person authorised under section 928 to exercise powers on his behalf, and

(d) any officer or servant of any such person.

(4) Information shall not be treated as information to which this section applies if it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purpose for which, disclosure is not precluded by this section.

(5) A person who contravenes this section commits a contravention of these Regulations and shall be liable to a fine of up to level 8.

931. Exceptions from restrictions on disclosure

(1) Information to which section 930 applies may be disclosed−

(a) to any person with a view to the institution of, or otherwise for the purposes of, relevant regulatory proceedings as determined by the Registrar,

(b) for the purpose of enabling or assisting a relevant authority to discharge any relevant function (including functions in relation to proceedings),

(c) if the disclosure is made in the interests of investors or in the public interest,

(d) if the information is or has been available to the public from other sources,

(e) in a summary or collection of information framed in such a way as not to enable the identity of any person to whom the information relates to be ascertained,

(f) pursuant to an obligation imposed on the Registrar under the laws of the United Arab Emirates which is effective in the Abu Dhabi Global Market.

932. Contraventions by bodies corporate, partnerships and unincorporated associations

(1) Where a contravention under section 929 or 930 committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity, he as well as the body corporate has committed a contravention and is liable to be proceeded against and fined accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as to a director of a body corporate.

(3) Where a contravention under section 929 or 930 committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership has committed a contravention and is liable to be proceeded against and fined accordingly.

(4) Where a contravention under section 929 or 930 committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the association or any member of its governing body, he as well as the association has committed a contravention and is liable to be proceeded against and fined accordingly.

933. Jurisdiction and procedure in respect of contraventions

(1) Proceedings for a contravention under section 929 may, without prejudice to any jurisdiction exercisable apart from this section, be taken against a body corporate or unincorporated association at any place at which it has a place of business and against an individual at any place where he is for the time being.

(2) Proceedings for a contravention alleged to have been committed under section 929 or 930 by an unincorporated association shall be brought in the name of the association (and not in that of any of its members), and for the purposes of any such proceedings any rules of Court relating to the service of documents apply as in relation to a body corporate.

(3) A fine imposed on an unincorporated association on its conviction of such a contravention shall be paid out of the funds of the association.

PART 31

THE REGISTRAR OF COMPANIES

Scheme of this Part

934. Scheme of this Part

(1) The scheme of this Part is as follows.

(2) The following provisions apply generally (to the Registrar, to any functions of the Registrar, or to documents delivered to or issued by the Registrar under any law or regulation applicable in the Abu Dhabi Global Market, as the case may be)−

sections 935 to 938 (the Registrar),

sections 942 to 945 (delivery of documents to the Registrar),

sections 946 to 950 (requirements for proper delivery),

sections 954(1), 954(4) and 954(5) and 966 (keeping and production of records),

section 957 (preservation of original documents),

sections 980 to 982 (language requirements: transliteration),

sections 983 and 986 to 989 (supplementary provisions).

(3) The following provisions apply in relation to companies (save as expressed therein) −

sections 939 and 940 (certificates of incorporation),

section 941 (companies' registered numbers),

sections 951 to 953 (public notice of receipt of certain documents),

sections 954(2), 955, 956 and 958 (the register),

sections 959 to 965 (inspection of the register),

sections 968 to 973 (correction or removal of material on the register), and

sections 984 and 985 (supplementary provisions).

(4) The following provisions apply as indicated in the provisions concerned−

sections 974 to 975 (the Registrar's register of company names),

sections 976 to 979 (language requirements: translation).

935. The Registrar

In accordance with Article 10 of the ADGM Founding Law, there shall be an Abu Dhabi Global Market registration bureau.

936. The Registrar's functions

(1) The Registrar shall−

(a) perform the functions conferred on the Registrar by or under the ADGM Founding Law, these Regulations, the Commercial Licensing Regulations 2015 or any other law or regulation applicable in the Abu Dhabi Global Market, and

(b) perform such functions on behalf of the Board, in relation to the registration of companies or other matters, as the Board may from time to time direct by resolution.

(2) Without limiting the generality of subsection 1(a) or (b), the functions of the Registrar shall include−

(a) the preparation indicative and non-binding guidance on these Regulations and advising the Board when any such guidance is issued;

(b) prescribing forms to be used for any of the purposes of these Regulations, the Commercial Licensing Regulations 2015 or any other regulations administered by the Registrar;

(c) any tasks and powers properly delegated to it by the Board or any other authority in the Abu Dhabi Global Market; and

(d) where it considers it appropriate to do so, delegating such of its functions and powers as may more efficiently and effectively be performed by its officers or employees and, with the approval of the Board, to any other Abu Dhabi Global Market authority (other than the Court).

(3) The Registrar shall assist the United Arab Emirates in complying with its obligations under any international treaty or other agreement to which the United Arab Emirates is a party through the exercise of its powers and functions.

(4) In exercising its powers and performing its functions the Registrar shall act in an independent manner.

(5) References in these Regulations to the functions of the Registrar are to functions within subsections (1) and (2).

937. The Registrar's official seal

The Registrar shall have an official seal for the authentication of paper copy documents in connection with the performance of the Registrar's functions. Any electronic copy documents shall not require the official seal.

938. Fees payable to Registrar

(1) The Board may make rules requiring the payment to the Registrar of fees in respect of–

(a) the performance of any of the Registrar's functions, or

(b) the provision by the Registrar of services or facilities for purposes incidental to, or otherwise connected with, the performance of any of the Registrar's functions.

(2) The matters for which fees may be charged include–

(a) the performance of a duty imposed on the Registrar or the Board,

(b) the receipt of documents delivered to the Registrar, and

(c) the inspection, or provision of copies, of documents kept by the Registrar.

(3) The rules may–

(a) provide for the amount of the fees to be fixed by or determined under the rules,

(b) provide for different fees to be payable in respect of the same matter in different circumstances,

(c) specify the person by whom any fee payable under the rules is to be paid,

(d) specify when and how fees are to be paid.

(4) Fees received by the Registrar are to be paid into the such account as the Registrar may direct, from time to time.

Certificates of incorporation

939. Public notice of issue of certificate of incorporation

(1) The Registrar must cause to be published−

(a) on its website, or

(b) in accordance with section 988 (alternative means of giving public notice),

notice of the issue by the Registrar of any certificate of incorporation of a company.

(2) The notice must state the name and registered number of the company and the date of issue of the certificate.

(3) This section applies to a certificate of incorporation issued under–

(a) section 67 (change of name), or

(b) any provision of Part 7 (re-registration),

as well as to the certificate issued on a company's formation.

940. Form and right to certificate of incorporation

(1) Any certificate of incorporation issued by the Registrar shall be in electronic form only, unless a request is made pursuant to section 940 (2).

(2) Any person may request that the Registrar provide it with a paper copy of any certificate of incorporation of a company, signed by the Registrar or authenticated by the Registrar's seal.

(3) The Board may make rules requiring the payment of certain fees to the Registrar for the provision of the paper copy as described in subsection 940(2).

Registered numbers

941. Company's registered numbers

(1) The Registrar shall allocate to every company a number, which shall be known as the company's registered number.

(2) Companies' registered numbers shall be in such form, consisting of one or more sequences of figures or letters, as the Registrar may determine.

(3) The Registrar may on adopting a new form of registered number make such changes of existing registered numbers as appear necessary.

(4) A change of a company's registered number has effect from the date on which the company is notified by the Registrar of the change.

(5) For a period of three years beginning with that date any requirement to disclose the company's registered number imposed by rules under section 70 (requirement to disclose company name etc.) is satisfied by the use of either the old number or the new.

Delivery of documents to the Registrar

942. Registrar's requirements as to form, authentication and manner of delivery

(1) The Registrar may impose requirements as to the form, authentication and manner of delivery of documents required or authorised to be delivered to the Registrar under any law or regulation applicable in the Abu Dhabi Global Market.

(2) As regards the form of the document, the Registrar may–

(a) require the contents of the document to be in a standard form,

(b) impose requirements for the purpose of enabling the document to be scanned or copied.

(3) As regards authentication, the Registrar may–

(a) require the document to be authenticated by a particular person or a person of a particular description,

(b) specify the means of authentication,

(c) require the document to contain or be accompanied by the name or registered number (or both) of the company (or other body) to which it relates.

(4) As regards the manner of delivery, the Registrar may specify requirements as to–

(a) the physical form of the document (for example, hard copy or electronic form),

(b) the means to be used for delivering the document (for example, by post or electronic means),

(c) the address to which the document is to be sent,

(d) in the case of a document to be delivered by electronic means, the hardware and software to be used, and technical specifications (for example, matters relating to protocol, security, anti-virus protection or encryption).

(5) The power conferred by this section does not authorise the Registrar to require documents to be delivered by electronic means (see section 943).

(6) Requirements imposed under this section must not be inconsistent with requirements imposed by any law or regulation applicable in the Abu Dhabi Global Market with respect to the form, authentication or manner of delivery of the document concerned.

943. Power to require delivery by electronic means

(1) The Registrar make rules requiring documents that are authorised or required to be delivered to the Registrar to be delivered by electronic means.

(2) Any such requirement to deliver documents by electronic means is effective only if Registrar's rules have been published with respect to the detailed requirements for such delivery.

944. Agreement for delivery by electronic means

(1) The Registrar may agree with a company (or other body) that documents relating to the company (or other body) that are required or authorised to be delivered to the Registrar–

(a) will be delivered by electronic means, except as provided for in the agreement, and

(b) will conform to such requirements as may be specified in the agreement or specified by the Registrar in accordance with the agreement.

(2) An agreement under this section may relate to all or any description of documents to be delivered to the Registrar.

(3) Documents in relation to which an agreement is in force under this section must be delivered in accordance with the agreement.

945. Document not delivered until received

(1) A document is not delivered to the Registrar until it is received by the Registrar.

(2) Provision may be made by Registrar's rules as to when a document is to be regarded as received.

Requirements for proper delivery

946. Requirements for proper delivery

(1) A document delivered to the Registrar is not properly delivered unless all the following requirements are met–

(a) the requirements of the provision under which the document is to be delivered to the Registrar as regards–

(i) the contents of the document, and

(ii) form, authentication and manner of delivery,

(b) any applicable requirements under–

(i) section 942 (Registrar's requirements as to form, authentication and manner of delivery),

(ii) section 943 (power to require delivery by electronic means), or

(iii) section 944 (agreement for delivery by electronic means),

(c) any requirements of this Part as to the language in which the document is drawn up and delivered or as to its being accompanied on delivery by a certified translation into English,

(d) in so far as it consists of or includes names and addresses, any requirements of this Part as to permitted characters, letters or symbols or as to its being accompanied on delivery by a certificate as to the transliteration of any element,

(e) any requirement of rules under section 956 (use of unique identifiers),

(f) any applicable requirements under section 983 (Registrar's requirements as to certification or verification),

(g) any requirements as regards payment of a fee in respect of its receipt by the Registrar.

(2) A document that is not properly delivered is treated for the purposes of the provision requiring or authorising it to be delivered as not having been delivered, subject to the provisions of section 947 (power to accept documents not meeting requirements for proper delivery).

947. Power to accept documents not meeting requirements for proper delivery

(1) The Registrar may accept (and register) a document that does not comply with the requirements for proper delivery.

(2) A document accepted by the Registrar under this section is treated as received by the Registrar for the purposes of section 951 (public notice of receipt of certain documents).

(3) No objection may be taken to the legal consequences of a document's being accepted (or registered) by the Registrar under this section on the ground that the requirements for proper delivery were not met.

(4) The acceptance of a document by the Registrar under this section does not affect–

(a) the continuing obligation to comply with the requirements for proper delivery, or

(b) subject as follows, any liability for failure to comply with those requirements.

(5) For the purposes of–

(a) section 428 (default in filing accounts), and

(b) any applicable law or regulation imposing a daily default fine for failure to deliver the document,

the period after the document is accepted does not count as a period during which there is default in complying with the requirements for proper delivery.

(6) But if, subsequently–

(a) the Registrar issues a notice under section 969(4) in respect of the document (notice of administrative removal from the register), and

(b) the requirements for proper delivery are not complied with before the end of the period of 14 days after the issue of that notice,

any subsequent period of default does count for the purposes of those provisions.

948. Documents containing unnecessary material

(1) This section applies where a document delivered to the Registrar contains unnecessary material.

(2) "Unnecessary material" means material that–

(a) is not necessary in order to comply with an obligation under these Regulations, and

(b) is not specifically authorised to be delivered to the Registrar.

(3) For this purpose an obligation to deliver a document of a particular description, or conforming to certain requirements, is regarded as not extending to anything that is not needed for a document of that description or, as the case may be, conforming to those requirements.

(4) If the unnecessary material cannot readily be separated from the rest of the document, the document is treated as not meeting the requirements for proper delivery.

(5) If the unnecessary material can readily be separated from the rest of the document, the Registrar may register the document either–

(a) with the omission of the unnecessary material, or

(b) as delivered.

949. Informal correction of document

(1) A document delivered to the Registrar may be corrected by the Registrar if it appears to the Registrar to be incomplete or internally inconsistent.

(2) This power is exercisable only–

(a) on instructions, and

(b) if the company (or other body) to which the document relates has given (and has not withdrawn) its consent to instructions being given under this section.

(3) The following requirements must be met as regards the instructions–

(a) the instructions must be given in response to an enquiry by the Registrar,

(b) the Registrar must be satisfied that the person giving the instructions is authorised to do so–

(i) by the person by whom the document was delivered, or

(ii) by the company (or other body) to which the document relates,

(c) the instructions must meet any requirements of Registrar's rules as to–

(i) the form and manner in which they are given, and

(ii) authentication.

(4) The consent of the company (or other body) to instructions being given under this section (and any withdrawal of such consent)–

(a) may be in hard copy or electronic form, and

(b) must be notified to the Registrar.

(5) This section applies in relation to documents delivered under Part 24 (company charges) by a person other than the company (or other body) as if the references to the company (or other body) were to the company (or other body) or the person by whom the document was delivered.

(6) A document that is corrected under this section is treated, for the purposes of any law or regulation applicable in the Abu Dhabi Global Market relating to its delivery, as having been delivered when the correction is made.

(7) The power conferred by this section is not exercisable if the document has been registered under section 947 (power to accept documents not meeting requirements for proper delivery).

950. Replacement of document not meeting requirements for proper delivery

(1) The Registrar may accept a replacement for a document previously delivered that–

(a) did not comply with the requirements for proper delivery, or

(b) contained unnecessary material (within the meaning of section 948).

(2) A replacement document must not be accepted unless the Registrar is satisfied that it is delivered by–

(a) the person by whom the original document was delivered, or

(b) the company (or other body) to which the original document relates,

and that it complies with the requirements for proper delivery.

(3) The power of the Registrar to impose requirements as to the form and manner of delivery includes power to impose requirements as to the identification of the original document and the delivery of the replacement in a form and manner enabling it to be associated with the original.

(4) This section does not apply where the original document was delivered under Part 24 (company charges) (but see section 838 (rectification of register)).

Public notice of receipt of certain documents

951. Public notice of receipt of certain documents

(1) The Registrar must cause to be published–

(a) on its website, or

(b) in accordance with section 988 (alternative means of giving public notice),

notice of the receipt by the Registrar of any document that, on receipt, is subject to the enhanced disclosure requirements (see section 952).

(2) The notice must state the name and registered number of the company, the description of document and the date of receipt.

(3) The Registrar is not required to cause notice of the receipt of a document to be published before the date of incorporation of the company to which the document relates.

952. Documents subject to enhanced disclosure requirements[27]

(1) The documents subject to the "enhanced disclosure requirements" are as follows.

(2) In the case of every company–

Constitutional documents

1. The company's articles.
2. Any amendment of the company's articles (including the text of every resolution or agreement required to be embodied in or annexed to copies of the company's articles issued by the company).
3. After any amendment of the company's articles, the text of the articles as amended.
4. Any notice of a change of the company's name.

Registered office

1. The company's registered office.
2. Notification of any change of the company's registered office.

Winding up

1. Copy of any winding-up order in respect of the company.
2. Notice of the appointment of liquidators.
3. Order for the dissolution of a company on a winding up.
4. Return by a liquidator of the final meeting of a company on a winding up.

(3) In the case of every company that is not a restricted scope company or investment company.

Directors

1. The statement of proposed officers required on formation of the company.
2. Notification of any change among the company's directors.
3. Notification of any change in the particulars of directors required to be delivered to the Registrar.

Reports and returns

1. All documents delivered to the Registrar under sections 384(2)(e) (Individual accounts: exemption for dormant subsidiaries), 423(2)(e) (Dormant subsidiaries exempt from obligation to file accounts) and 452(2)(e) (Subsidiary companies: conditions for exemption from audit).
2. The company's confirmation statement.

(4) In the case of a public company–

Share capital

1. Any statement of capital and initial shareholdings.
2. Any return of allotment and the statement of capital accompanying it.

[27] Amended 6 September 2021

3. Copy of any resolution under section 529 or 530 (disapplication of preemption rights).

4. Copy of any report under section 550 or 556 as to the value of a non-cash asset.

5. Notice delivered under section 577 (notice of new name of class of shares) or 578 (notice of variation of rights attached to shares).

6. Statement of capital accompanying order delivered under section 590 (Registration of order and statement of capital).

7. Notification (under section 628) of the redemption of shares and the statement of capital accompanying it.

8. Statement of capital accompanying return delivered under section 648 (notice to Registrar of cacncellation of shares) or 671 (Treasury shares: notice of cancellation).

9. Any statement of compliance delivered under section 700 (Procedure for obtaining certificate).

Mergers and divisions

1. Copy of any draft of the terms of a scheme required to be delivered to the Registrar under section 812 or 832.

2. Copy of any order under section 805 or 806 in respect of a compromise or arrangement to which Part 25 (Arrangements and Reconstructions) applies.

(5) Where a private company re-registers as a public company (see section 80)–

(a) the last statement of capital relating to the company received by the Registrar under any provision of these Regulations becomes subject to the enhanced disclosure requirements, and

(b) section 951 (public notice of receipt of certain documents) applies as if the statement had been received by the Registrar when the re-registration takes effect.

953. Effect of failure to give public notice

(1) A company is not entitled to rely against other persons on the happening of any event to which this section applies unless–

(a) the event has been officially notified at the material time, or

(b) the company shows that the person concerned knew of the event at the material time.

(2) The events to which this section applies are–

(a) an amendment of the company's articles,

(b) where the company is not a restricted scope company, a change among the company's directors.

(c) (as regards service of any document on the company) a change of the company's registered office,

(d) the making of a winding-up order in respect of the company, or

(e) the appointment of a liquidator in a voluntary winding up of the company.

(3) If the material time falls–

(a) on or before the 15th day after the date of official notification, or

(b) where the 15th day was not a working day, on or before the next day that was,

the company is not entitled to rely on the happening of the event as against a person who shows that he was unavoidably prevented from knowing of the event at that time.

(4) "Official notification" means–

(a) in relation to an amendment of the company's articles, notification in accordance with section 951 (public notice of receipt by Registrar of certain documents) of the amendment and the amended text of the articles,

(b) in relation to anything else stated in a document subject to the enhanced disclosure requirements, notification of that document in accordance with that section,

(c) in relation to the appointment of a liquidator in a voluntary winding up, notification of that event in accordance with the Insolvency Regulations 2015.

The register

954. The register

(1) The Registrar shall continue to keep records of–

(a) the information contained in documents delivered to the Registrar under these Regulations, and any other law or regulation applicable in the Abu Dhabi Global Market, and

(b) certificates issued by the Registrar under any law or regulation applicable in the Abu Dhabi Global Market .

(2) The records relating to companies are referred to collectively in these Regulations as "the register".

(3) Information deriving from documents subject to the enhanced disclosure requirements must be kept by the Registrar in electronic form.

(4) Subject to that, information contained in documents delivered to the Registrar may be recorded and kept in any form the Registrar thinks fit, provided it is possible to inspect it and produce a copy of it where permitted to do so under these Regulations.

(5) Compliance with subsection (6) will satisfy any duty of the Registrar to keep, file or register the document or to record the information contained in it.

(6) The records kept by the Registrar must be such that information relating to a company or other registered body is associated with that body , in such manner as the Registrar may determine, so as to enable all the information relating to the body to be retrieved.

955. Annotation of the register

(1) The Registrar must place a note in the register recording–

(a) the date on which a document is delivered to the Registrar,

(b) if a document is corrected under section 949, the nature and date of the correction,

(c) if a document is replaced (whether or not material derived from it is removed), the fact that it has been replaced and the date of delivery of the replacement,

(d) if material is removed–

(i) what was removed (giving a general description of its contents),

(ii) under what power, and

(iii) the date on which that was done,

(e) if a document is rectified under section 838, the nature and date of rectification,

(f) if a document is replaced under section 839, the fact that it has been replaced and the date of delivery of the replacement.

(2) The Registrar may annotate the register in such other circumstances and manners as it may decide in rules made by it under this section.

(3) No annotation is required in the case of a document that by virtue of section 946(2) (documents not meeting requirements for proper delivery) is treated as not having been delivered.

(4) A note may be removed if it no longer serves any useful purpose.

(5) Any duty or power of the Registrar with respect to annotation of the register is subject to the Court's power under section 972 (powers of Court on ordering removal of material from the register) to direct–

(a) that a note be removed from the register, or

(b) that no note shall be made of the removal of material that is the subject of the Court's order.

(6) Notes placed in the register in accordance with subsection (1), or in pursuance of an rules made under subsection (2), are part of the register for all purposes of these Regulations.

956. Allocation of unique identifiers

(1) The Registrar may make rules for the use, in connection with the register, of reference numbers ("unique identifiers") to identify each person who–

(a) is a director of a company, or

(b) is secretary (or a joint secretary) of a company.

(2) The rules may–

(a) provide that a unique identifier may be in such form, consisting of one or more sequences of letters or numbers, as the Registrar may from time to time determine,

(b) make provision for the allocation of unique identifiers by the Registrar,

(c) require there to be included, in any specified description of documents delivered to the Registrar, as well as a statement of the person's name–

(i) a statement of the person's unique identifier, or

(ii) a statement that the person has not been allocated a unique identifier,

(d) enable the Registrar to take steps where a person appears to have more than one unique identifier to discontinue the use of all but one of them.

(3) The rules may make different provision for different descriptions of person and different descriptions of document.

957. Preservation of original documents

(1) The originals of documents delivered to the Registrar in hard copy form may, at the sole discretion of the Registrar, be destroyed (provided the information contained in them has been recorded) or returned to the party who delivered them to the Registrar.

This is subject to section 961(5) (extent of obligation to retain material not available for public inspection).

(2) The Registrar is under no obligation to keep the originals of documents delivered in electronic form, provided the information contained in them has been recorded

958. Records relating to companies that have been dissolved etc[28]

(1) This section applies where a company is dissolved.

(2) At any time after five years from the date on which it appears to the Registrar that the company has been dissolved, the Registrar may direct that records relating to the company or institution may be removed to such place as is directed by the Board, or otherwise destroyed.

Inspection etc of the register

959. Inspection of the register

(1) Any person may inspect the register.

(2) This section has effect subject to section 961 (material not available for public inspection).

960. Right to copy of material on the register

(1) Any person may require an electronic copy of any publicly available material on the register.

(2) The fee for any such an electronic copy of material derived from a document subject to the enhanced disclosure requirements (see section 952) must not exceed the administrative cost of providing it.

[28] Amended 23 February 2023

(3) Any person may request that the Registrar provide it with a paper copy of any publically available material on the register.

(4) The Board may make rules requiring the payment of certain fees to the Registrar for the provision of the paper copy as described in subsection 960(3).

(5) This section has effect subject to section 961 (material not available for public inspection).

961. Material not available for public inspection

(1) The following material must not be made available by the Registrar for public inspection–

(a) subject to sub-section (2) and (3), any document filed with the Registrar by a restricted scope company or investment company that is not subject to the enhanced disclosure requirements,

(b) protected information within section 228(1) (directors' residential addresses: restriction on disclosure by Registrar),

(c) representations received by the Registrar in response to a notice under section 235(2) (notice of proposal to put director's usual residential address on the public record),

(d) any document or notice (other than a final notice issued under section 253) filed or prepared by the Registrar under chapter 9 (*Disqualification of Directors*) of Part 10,

(e) any application to the Registrar under section 889 (application for administrative restoration to the register) that has not yet been determined or was not successful,

(f) any document received by the Registrar in connection with the giving or withdrawal of consent under section 949 (informal correction of documents),

(g) any application or other document delivered to the Registrar under section 962 (application to make address unavailable for public inspection) and any address in respect of which such an application is successful,

(h) any application or other document delivered to the Registrar under section 970 (application for rectification of register),

(i) any Court order under section 971 (rectification of the register under Court order) that the Court has directed under section 972 (powers of Court on ordering removal of material from the register) is not to be made available for public inspection,

(j) any e-mail address, identification code or password deriving from a document delivered for the purpose of authorising or facilitating electronic filing procedures or providing information by telephone,

(k) any other material excluded from public inspection by or under any other law or regulation applicable in the Abu Dhabi Global Market.

(2) A restricted scope company or investment company may at any time request in writing that the Registrar make available to specified person(s) or to the public some or all of

the documents it has filed with the Registrar (a "disclosure request"). The disclosure request must specify:

(a) the person(s) entitled to such disclosure (or, if the disclosure is intended to be made to the public, a statement to that effect), and

(b) the documents to be so disclosed (or, if the disclosure relates to all filings made by the restricted scope company or investment company, as the case may be, a statement to that effect).

(3) Upon receipt of a disclosure request complying with sub-section (2) the Registrar shall make the documents specified in the disclosure notice available to the persons specified in the disclosure notice using such means as it sees fit.

(4) A restriction applying by reference to material deriving from a particular description of document does not affect the availability for public inspection of the same information contained in material derived from another description of document in relation to which no such restriction applies.

(5) Material to which this section applies need not be retained by the Registrar for longer than appears to the Registrar reasonably necessary for the purposes for which the material was delivered to the Registrar.

962. Application to Registrar to make address unavailable for public inspection

(1) The Registrar may make rules which provide for the Registrar, on application, to make an address on the register unavailable for public inspection.

(2) The rules may make provision as to–

(a) who may make an application,

(b) the grounds on which an application may be made,

(c) the information to be included in and documents to accompany an application,

(d) the notice to be given of an application and of its outcome, and

(e) how an application is to be determined.

(3) Provision under subsection (2)(e) may in particular–

(a) confer a discretion on the Registrar,

(b) provide for a question to be referred to a person other than the Registrar for the purposes of determining the application.

(4) An application must specify the address to be removed from the register and indicate where on the register it is.

(5) The rules may provide–

(a) that an address is not to be made unavailable for public inspection under this section unless replaced by a service address, and

(b) that in such a case the application must specify a service address.

963. Form of application for inspection or copy

(1) The Registrar may specify the form and manner in which application is to be made for–

(a) inspection under section 959, or

(b) a copy under section 960.

964. Form and manner in which copies are to be provided

(1) The following provisions apply as regards the form and manner in which copies, except in the case of certificates of incorporation, are to be provided under section 960.

(2) Except in the case of certificates of incorporation, copies of documents shall be subject to the enhanced disclosure requirements must be provided in paper copy or electronic form, as the applicant chooses.

(3) Subject to the preceding provisions of this section, the Registrar may determine the form and manner in which copies are to be provided.

(4) The certificate of incorporation shall comply with the provisions of section 940 (Form and right to certificate of incorporation).

965. Certification of copies as accurate

(1) Copies provided under section 960 in hard copy form must be certified as true copies unless the applicant dispenses with such certification.

(2) Copies so provided in electronic form must not be certified as true copies unless the applicant expressly requests such certification.

(3) A copy provided under section 960, certified by the Registrar (whose official position it is unnecessary to prove) to be an accurate record of the contents of the original document, is in all legal proceedings admissible in evidence–

(a) as of equal validity with the original document, and

(b) as evidence of any fact stated in the original document of which direct oral evidence would be admissible.

(4) Except in the case of documents that are subject to the enhanced disclosure requirements (see section 952), copies provided by the Registrar may, instead of being certified in writing to be an accurate record, be sealed with the Registrar's official seal.

966. Issue of process for production of records kept by the Registrar

(1) No process for compelling the production of a record kept by the Registrar shall issue from any Court except with the permission of the Court.

(2) Any such process shall bear on it a statement that it is issued with the permission of the Court.

967. Provision of information to public authorities etc.

(1) The Registrar may disclose any material held where such disclosure is–

(a) is permitted or required to be made under the laws, regulations or rules of the Abu Dhabi Global Market,

(b) is made to–

(i) the Financial Services Regulator,

(ii) a governmental or regulatory authority exercising powers and performing functions relating to anti-money laundering,

(iii) a self-regulatory body or organization exercising and performing powers and functions in relation to financial services,

(iv) a civil or criminal law enforcement agency, or

(v) a governmental or other regulatory authority including a self regulatory body or organisation exercising powers and performing functions in relation to the regulation of auditors, accountants or lawyers,

for the purpose of assisting the performance by any such person of its regulatory functions, or

(c) is made in good faith for the purposes of performance and exercise of the functions and powers of the Registrar.

Correction or removal of material on the register

968. Registrar's notice to resolve inconsistency on the register

(1) Where it appears to the Registrar that the information contained in a document delivered to the Registrar is inconsistent with other information on the register, the Registrar may give notice to the company to which the document relates–

(a) stating in what respects the information contained in it appears to be inconsistent with other information on the register, and

(b) requiring the company to take steps to resolve the inconsistency.

(2) The notice must–

(a) state the date on which it is issued, and

(b) require the delivery to the Registrar, within 14 days after that date, of such replacement or additional documents as may be required to resolve the inconsistency.

(3) If the necessary documents are not delivered within the period specified, contravention of these Regulations is committed by–

(a) the company, and

(b) every officer of the company who is in default.

(4) A person who commits the contravention referred to subsection (3) is liable to a level 2 fine.

969. Administrative removal of material from the register

(1) The Registrar may remove from the register anything that there was power, but no duty, to include.

(2) This power is exercisable, in particular, so as to remove–

(a) unnecessary material within the meaning of section 948, and

(b) material derived from a document that has been replaced under–

section 950 (replacement of document not meeting requirements for proper delivery), or

section 968 (notice to remedy inconsistency on the register).

(3) This section does not authorise the removal from the register of–

(a) anything whose registration has had legal consequences in relation to the company as regards–

(i) its formation,

(ii) a change of name,

(iii) its re-registration,

(iv) a reduction of capital,

(v) a change of registered office,

(vi) the registration of a charge, or

(vii) its dissolution,

(b) an address that is a person's service address for the purposes of section 1000 (service of documents on directors, secretaries and others).

(4) On or before removing any material under this section (otherwise than at the request of the company) the Registrar must give notice–

(a) to the person by whom the material was delivered (if the identity, and name and address of that person are known), or

(b) to the company to which the material relates (if notice cannot be given under paragraph (a) and the identity of that company is known).

(5) The notice must–

(a) state what material the Registrar proposes to remove, or has removed, and on what grounds, and

(b) state the date on which it is issued.

970. Rectification of register on application to Registrar

(1) The Registrar may make rules providing for the Registrar, on application, to remove from the register material of a description specified in the rules that–

(a) derives from anything invalid or ineffective or that was done without the authority of the company, or

(b) is factually inaccurate, or is derived from something that is factually inaccurate or forged.

(2) The rules may make provision as to–

(a) who may make an application,

(b) the information to be included in and documents to accompany an application,

(c) the notice to be given of an application and of its outcome,

(d) a period in which objections to an application may be made, and

(e) how an application is to be determined.

(3) An application must–

(a) specify what is to be removed from the register and indicate where on the register it is, and

(b) be accompanied by a statement that the material specified in the application complies with this section and the rules.

(4) If no objections are made to the application, the Registrar may accept the statement as sufficient evidence that the material specified in the application should be removed from the register.

(5) Where anything is removed from the register under this section the registration of which had legal consequences as mentioned in section 969(3), any person appearing to the Court to have a sufficient interest may apply to the Court for such consequential orders as appear just with respect to the legal effect (if any) to be accorded to the material by virtue of its having appeared on the register.

971. Rectification of the register under Court order

(1) The Registrar shall remove from the register any material–

(a) that derives from anything that the Court has declared to be invalid or ineffective, or to have been done without the authority of the company, or

(b) that a Court declares to be factually inaccurate, or to be derived from something that is factually inaccurate, or forged,

and that the Court directs should be removed from the register.

(2) The Court order must specify what is to be removed from the register and indicate where on the register it is.

(3) The Court must not make an order for the removal from the register of anything the registration of which had legal consequences as mentioned in section 969(3) unless satisfied–

(a) that the presence of the material on the register has caused, or may cause, damage to the company, and

(b) that the company's interest in removing the material outweighs any interest of other persons in the material continuing to appear on the register.

(4) Where in such a case the Court does make an order for removal, it may make such consequential orders as appear just with respect to the legal effect (if any) to be accorded to the material by virtue of its having appeared on the register.

(5) A copy of the Court's order must be sent to the Registrar for registration.

(6) This section does not apply where the Court has other, specific, powers to deal with the matter, for example under–

(a) the provisions of Part 14 relating to the revision of defective accounts and reports, or

(b) section 803 (rectification of register) .

972. Powers of Court on ordering removal of material from the register

(1) Where the Court makes an order for the removal of anything from the register under section 971 (rectification of the register), it may give directions under this section.

(2) It may direct that any note on the register that is related to the material that is the subject of the Court's order shall be removed from the register.

(3) It may direct that its order shall not be available for public inspection as part of the register.

(4) It may direct–

(a) that no note shall be made on the register as a result of its order, or

(b) that any such note shall be restricted to such matters as may be specified by the Court.

(5) The Court shall not give any direction under this section unless it is satisfied–

(a) that–

(i) the presence on the register of the note or, as the case may be, of an unrestricted note, or

(ii) the availability for public inspection of the Court's order,

may cause damage to the company, and

(b) that the company's interest in non-disclosure outweighs any interest of other persons in disclosure.

973. Public notice of removal of certain material from the register

(1) The Registrar must cause to be published–

(a) on its website, or

(b) in accordance with section 988 (alternative means of giving public notice),

notice of the removal from the register of any document subject to the enhanced disclosure requirements (see section 952) or of any material derived from such a document.

(2) The notice must state the name and registered number of the company, the description of document and the date of receipt.

The Registrar's register of company names

974. The Registrar's register of company names

(1) The Registrar of companies must keep an alphabetically ordered electronic register of the names of the companies and other bodies to which this section applies.

This is "the Registrar's register of company names".

(2) This section applies to companies formed or registered under these Regulations.

(3) The Registrar may make rules providing that this section applies other bodies of any description.

975. Right to inspect register

Any person may inspect the Registrar's register of company names.

Language requirements: translation

976. Application of language requirements

(1) The provisions listed below apply to all documents required to be delivered to the Registrar under any provision of–

(a) these Regulations, or

(b) the Insolvency Regulations 2015.

(2) The Board may make rules applying all or any of the listed provisions, with or without modifications, in relation to documents delivered to the Registrar under any other law or regulation applicable in the Abu Dhabi Global Market.

(3) The provisions are–

section 977 (documents to be drawn up and delivered in English),

section 978 (documents that may be drawn up and delivered in other languages),

section 979 (certified translations).

977. Documents to be drawn up and delivered in English

(1) The general rule is that all documents required to be delivered to the Registrar must be drawn up and delivered in English.

(2) This is subject to section 978 (documents that may be drawn up and delivered in other languages).

978. Documents that may be drawn up and delivered in other languages

(1) Documents to which this section applies may be drawn up and delivered to the Registrar in a language other than English, but when delivered to the Registrar they must be accompanied by a certified translation into English.

(2) This section applies to–

(a) agreements required to be forwarded to the Registrar under Chapter 3 of Part 3 (agreements affecting the company's constitution),

(b) documents required to be delivered under section 394(2)(f) (company included in accounts of larger group: required to deliver copy of group accounts),

(c) certified copies delivered under Part 24 (company charges),

(d) documents of any other description specified in rules made by the Board.

979. Certified translations

(1) In this Part a "certified translation" means a translation certified to be a correct translation.

(2) In the case of any discrepancy between the original language version of a document and a certified translation–

(a) the company may not rely on the translation as against a third party, but

(b) a third party may rely on the translation unless the company shows that the third party had knowledge of the original.

(3) A "third party" means a person other than the company or the Registrar.

Language requirements: transliteration

980. Transliteration of names and addresses: permitted characters

(1) Names and addresses in a document delivered to the Registrar must contain only letters, characters and symbols (including accents and other diacritical marks) that are permitted.

(2) The Registrar may make rules –

(a) as to the letters, characters and symbols (including accents and other diacritical marks) that are permitted, and

(b) permitting or requiring the delivery of documents in which names and addresses have not been transliterated into a permitted form.

981. Transliteration of names and addresses: voluntary transliteration into Roman characters

(1) Where a name or address is or has been delivered to the Registrar in a permitted form using Arabic, or another form other than Roman characters, the company (or other body) to which the document relates shall deliver to the Registrar a transliteration into Roman characters.

(2) The power of the Registrar to impose requirements as to the form and manner of delivery includes power to impose requirements as to the identification of the original document and the delivery of the transliteration in a form and manner enabling it to be associated with the original.

982. Transliteration of names and addresses: certification

The Registrar may require the certification of transliterations and prescribe the form of certification.

Supplementary provisions

983. Registrar's requirements as to certification or verification

(1) Where a document required or authorised to be delivered to the Registrar under any applicable law or regulation is required–

(a) to be certified as an accurate translation or transliteration, or

(b) to be certified as a correct copy or verified,

the Registrar may impose requirements as to the person, or description of person, by whom the certificate or verification is to be given.

(2) The power conferred by section 942 (Registrar's requirements as to form, authentication and manner of delivery) is exercisable in relation to the certificate or verification as if it were a separate document.

(3) Requirements imposed under this section must not be inconsistent with requirements imposed by any law or regulation applicable in the Abu Dhabi Global Market with respect to the certification or verification of the document concerned.

984. General false statement contravention

(1) It is a contravention of these Regulations for a person knowingly or recklessly–

(a) to deliver or cause to be delivered to the Registrar, for any purpose of these Regulations, a document, or

(b) to make to the Registrar, for any such purpose, a statement,

that is misleading, false or deceptive in a material particular.

(2) A person who commits the contravention referred to in subsection (1) is liable to a fine of up to level 7.

985. Enforcement of company's filing obligations

(1) This section applies where a company has made default in complying with any obligation under these Regulations–

(a) to deliver a document to the Registrar, or

(b) to give notice to the Registrar of any matter.

(2) The Registrar, or any member or creditor of the company, may give notice to the company requiring it to comply with the obligation.

(3) If the company fails to make good the default within 14 days after service of the notice, the Registrar, or any member or creditor of the company, may apply to the Court for an order directing the company, and any specified officer of it, to make good the default within a specified time.

(4) The Court's order may provide that all costs of or incidental to the application are to be borne by the company or by any officers of it responsible for the default.

(5) This section does not affect the operation of any law or regulation applicable in the Abu Dhabi Global Market imposing a fine for the default.

986. Application of provisions about documents and delivery

(1) In this Part–

(a) "document" means information recorded in any form, and

(b) references to delivering a document include forwarding, lodging, registering, sending, producing or submitting it or (in the case of a notice) giving it.

(2) Except as otherwise provided, this Part applies in relation to the supply to the Registrar of information otherwise than in documentary form as it applies in relation to the delivery of a document.

987. Supplementary provisions relating to electronic communications

(1) Registrar's rules may require a company (or other body) to give any necessary consents to the use of electronic means for communications by the Registrar to the company (or other body) as a condition of making use of any facility to deliver material to the Registrar by electronic means.

(2) A document that is required to be signed or certified (including under section 965) or otherwise authenticated by the Registrar shall, if sent by electronic means, be authenticated in such manner as may be specified by Registrar's rules.

988. Alternative to publication on website

(1) Notices that would otherwise need to be published by the Registrar on its website may instead be published by such means as may from time to time be approved by the Registrar in accordance with rules made by the Board.

(2) The Board may make rules as to what alternative means may be approved.

(3) The rules may, in particular–

(a) require the use of other electronic means,

(b) require the same means to be used for all notices or for all notices of specified descriptions, and

(c) impose conditions as to the manner in which access to the notices is to be made available.

(4) Before starting to publish notices by means approved under this section the Registrar must publish at least one notice to that effect on its website.

(5) Nothing in this section prevents the Registrar from giving public notice both on its website and by means approved under this section. In that case, the requirement of public notice is met when notice is first given by either means.

989. Registrar's rules

(1) Where any provision of this Part enables the Registrar to make provision, or impose requirements, as to any matter, the Registrar may make such provision or impose such requirements by means of rules under this section. This is without prejudice to the making of such provision or the imposing of such requirements by other means.

(2) Registrar's rules–

(a) may make different provision for different cases, and

(b) may allow the Registrar to disapply or modify any of the rules.

(3) The Registrar must–

(a) publicise the rules in a manner appropriate to bring them to the notice of persons affected by them, and

(b) make copies of the rules available to the public (in hard copy or electronic form).

PART 32

CONTRAVENTIONS UNDER THE COMPANIES REGULATIONS

Liability of officer in default

990. Liability of officer in default

(1) This section has effect for the purposes of any provision of these Regulations to the effect that, in the event of contravention of these Regulations in relation to a company, a contravention is committed by every officer of the company who is in default.

(2) For this purpose "officer" includes–

(a) any director, manager or secretary, and

(b) any person who is to be treated as an officer of the company for the purposes of the provision in question.

(3) An officer is "in default" for the purposes of the provision if he authorises or permits, participates in, or fails to take all reasonable steps to prevent, the contravention.

991. Liability of company as officer in default

(1) Where a company is an officer of another company, it does not commit a contravention of these Regulations as an officer in default unless one of its officers is in default.

(2) Where any such contravention of these Regulations is committed by a company the officer in question also commits a contravention of these Regulations and is liable to be fined accordingly.

(3) In this section "officer" and "in default" have the meanings given by section 990.

(4) The provisions of this section are without prejudice to any other fine, censure or legal proceeding to which a director may be subject under these Regulations or any other law or regulation applicable in the Abu Dhabi Global Market.

992. Fines

(1) If all or any of the amount of a fine payable under these Regulations is outstanding 30 days after notice of that fine has been issued, the Registrar may recover the outstanding amount as a debt due to it.

(2) This section is subject to any direction of the Court.

993. Legal professional privilege

In proceedings against a person for a contravention of these Regulations, nothing in these Regulations is to be taken to require any person to disclose any information that he is entitled to refuse to disclose on grounds of legal professional privilege.

PART 33

COMPANIES: COMPANY RECORDS AND SUPPLEMENTARY PROVISIONS

Company records

994. Meaning of "company records"

In this Part "company records" means–

(a) any register, index, accounting records, agreement, memorandum, minutes or other document required by these Regulations to be kept by a company, and

(b) any register kept by a company of its debenture holders.

995. Form of company records

(1) Company records–

(a) may be kept in hard copy or electronic form, and

(b) may be arranged in such manner as the directors of the company think fit,

provided the information in question is adequately recorded for future reference.

(2) Where the records are kept in electronic form, they must be capable of being reproduced in hard copy form.

(3) If a company fails to comply with this section, a contravention of these Regulations is committed by every officer of the company who is in default.

(4) A person who commits the contravention referred to in subsection (3) is liable to a level 2 fine.

996. Rules about where certain company records to be kept available for inspection

(1) The Board may make rules specifying places other than a company's registered office at which company records required to be kept available for inspection under a relevant provision may be so kept in compliance with that provision.

(2) The "relevant provisions" are–

section 118 (register of members),

section 156 (register of directors' residential addresses),

section 292 (register of secretaries),

section 215 (directors' service contracts),

section 223 (directors' indemnities),

section 360 (records of resolutions etc),

section 642 (contracts relating to purchase of own shares),

section 660 (documents relating to redemption or purchase of own shares out of capital by private company),

section 682 (register of debenture holders),

section 737 (report to members of outcome of investigation by public company into interests in its shares),

section 740 (register of interests in shares disclosed to public company),

section 798 (instruments creating charges).

(3) The rules may specify a place by reference to the company's principal place of business, the place at which the company keeps any other records available for inspection or in any other way.

(4) The rules may provide that a company does not comply with a relevant provision by keeping company records available for inspection at a place specified in the rules unless conditions specified in the rules are met.

(5) The rules–

(a) need not specify a place in relation to each relevant provision,

(b) may specify more than one place in relation to a relevant provision.

(6) A requirement under a relevant provision to keep company records available for inspection is not complied with by keeping them available for inspection at a place specified in the rules unless all the company's records subject to the requirement are kept there.

997. Regulations about inspection of records and provision of copies

(1) The Board may make rules as to the obligations of a company that is required by any provision of these Regulations–

(a) to keep available for inspection any company records, or

(b) to provide copies of any company records.

(2) A company that fails to comply with the rules is treated as having refused inspection or, as the case may be, having failed to provide a copy.

(3) The rules may–

(a) make provision as to the time, duration and manner of inspection, including the circumstances in which and extent to which the copying of information is permitted in the course of inspection, and

(b) define what may be required of the company as regards the nature, extent and manner of extracting or presenting any information for the purposes of inspection or the provision of copies.

(4) Where there is power to charge a fee, the rules may make provision as to the amount of the fee and the basis of its calculation.

(5) Nothing in any provision of these Regulations or in the rules shall be read as preventing a company–

(a) from affording more extensive facilities than are required by the rules, or

(b) where a fee may be charged, from charging a lesser fee than that prescribed or none at all.

998. Duty to take precautions against falsification

(1) Adequate precautions must be taken by companies–

(a) to guard against falsification of company records, and

(b) to facilitate the discovery of falsification of company records.

(2) If a company fails to comply with this section, a contravention of these Regulations is committed by every officer of the company who is in default.

(3) A person who commits the contravention referred to in subsection (2) under this section is liable to a level 2 fine.

(4) This section does not apply to the documents required to be kept under–

(a) section 215 (copy of director's service contract or memorandum of its terms), or

(b) section 223 (qualifying indemnity provision).

Service addresses

999. Service of documents on company[29]

(1) A document may be served on a company registered under these Regulations by leaving it at, or sending it by post to, the company's registered office or the office of its company service provider appointed in accordance with Chapter 2 of Part 12 of these Regulations.

(2) For the purposes of this section a person's "registered address" means any address for the time being shown as a current address in relation to that person in the part of the register available for public inspection.

(3) Further provision as to service and other matters is made in the company communications provisions (see section 1003).

1000. Service of documents on directors, secretaries and others

(1) A document may be served on a person to whom this section applies if it is–

(a) delivered to him in person, or

(b) left at his residential or service address, or

(c) sent by post to him at his service address.

(2) This section applies to a director, secretary or registered agent of a company.

(3) This section applies whatever the purpose of the document in question.

It is not restricted to service for purposes arising out of or in connection with the appointment or position mentioned in subsection (2) or in connection with the company concerned.

[29] Amended 12 April 2021

(4) For the purposes of subsection (3)(c), service (whether the expression "serve" or the expression "give" or "send" or any other expression is used) of documents by post is, unless the contrary intention appears, deemed to be effected by properly addressing, pre-paying and posting a letter containing the document and, unless the contrary is proved, effected at the time at which the letter would be delivered in the ordinary course of post and, as it applies in relation to that subsection, the proper address of a person is–

(a) in the case of a firm incorporated or formed in the Abu Dhabi Global Market, its registered or principal office, or the registered office of its registered agent

(b) in the case of a firm incorporated or formed outside the Abu Dhabi Global Market –

(i) if it has a place of business in the Abu Dhabi Global Market, its principal office in the Abu Dhabi Global Market, or

(ii) if it does not have a place of business in the Abu Dhabi Global Market, its registered or principal office,

(c) in the case of an individual, his last known address.

(5) In the case of a creditor of the company a document is treated as given to him if it is left or sent by post to him–

(a) at the place of business of his with which the company has had dealings by virtue of which he is a creditor of the company, or

(b) if there is more than one such place of business, at each of them.

(6) Further provision as to service and other matters is made in the company communications provisions (see section 1003).

(7) Nothing in this section shall be read as affecting any applicable law, regulation, or rule of law under which permission is required for service out of the jurisdiction.

1001. Service addresses

(1) In these Regulations a "service address", in relation to a person, means a post box or other address at which documents may be effectively served on that person by a postal service operating in the United Arab Emirates.

1002. Requirement to give service address

Any obligation under these Regulations to give a person's address is, unless otherwise expressly provided, to give a service address for that person.

Sending or supplying documents or information

1003. The company communications provisions

(1) The provisions of sections 1004 to 1008 and Schedules 4 and 5 ("the company communications provisions") have effect for the purposes of any provision of these

Regulations that authorises or requires documents or information to be sent or supplied by or to a company.

(2) The company communications provisions have effect subject to any requirements imposed, or contrary provision made, by or under any law or regulation applicable in the Abu Dhabi Global Market.

(3) In particular, in their application in relation to documents or information to be sent or supplied to the Registrar, they have effect subject to the provisions of Part 36.

(4) For the purposes of subsection (2), provision is not to be regarded as contrary to the company communications provisions by reason only of the fact that it expressly authorises a document or information to be sent or supplied in hard copy form, in electronic form or by means of a website.

1004. Sending or supplying documents or information

(1) Documents or information to be sent or supplied to a company must be sent or supplied in accordance with the provisions of Schedule 4.

(2) Documents or information to be sent or supplied by a company must be sent or supplied in accordance with the provisions of Schedule 5.

(3) The provisions referred to in subsection (2) apply (and those referred to in subsection (1) do not apply) in relation to documents or information that are to be sent or supplied by one company to another.

1005. Right to hard copy version

(1) Where a member of a company or a holder of a company's debentures has received a document or information from the company otherwise than in hard copy form, he is entitled to require the company to send him a version of the document or information in hard copy form.

(2) The company must send the document or information in hard copy form within 21 days of receipt of the request from the member or debenture holder.

(3) The company may not make a charge for providing the document or information in that form.

(4) If a company fails to comply with this section, a contravention of these Regulations is committed by the company and every officer of it who is in default.

(5) A person who commits the contravention referred to in subsection (4) is liable to a level 2 fine.

1006. Requirement of authentication

(1) This section applies in relation to the authentication of a document or information sent or supplied by a person to a company.

(2) A document or information sent or supplied in hard copy form is sufficiently authenticated if it is signed by the person sending or supplying it.

(3) A document or information sent or supplied in electronic form is sufficiently authenticated–

(a) if the identity of the sender is confirmed in a manner specified by the company, or

(b) where no such manner has been specified by the company, if the communication contains or is accompanied by a statement of the identity of the sender and the company has no reason to doubt the truth of that statement.

(4) Where a document or information is sent or supplied by one person on behalf of another, nothing in this section affects any provision of the company's articles under which the company may require reasonable evidence of the authority of the former to act on behalf of the latter.

1007. Deemed delivery of documents and information

(1) This section applies in relation to documents and information sent or supplied by a company.

(2) Where–

(a) the document or information is sent by post (whether in hard copy or electronic form) to an address in the Abu Dhabi Global Market, and

(b) the company is able to show that it was properly addressed, prepaid and posted,

it is deemed to have been received by the intended recipient 48 hours after it was posted.

(3) Where–

(a) the document or information is sent or supplied by electronic means, and

(b) the company is able to show that it was properly addressed,

it is deemed to have been received by the intended recipient 48 hours after it was sent.

(4) Where the document or information is sent or supplied by means of a website, it is deemed to have been received by the intended recipient–

(a) when the material was first made available on the website, or

(b) if later, when the recipient received (or is deemed to have received) notice of the fact that the material was available on the website.

(5) In calculating a period of hours for the purposes of this section, no account shall be taken of any part of a day that is not a working day.

(6) This section has effect subject to–

(a) in its application to documents or information sent or supplied by a company to its members, any contrary provision of the company's articles,

(b) in its application to documents or information sent or supplied by a company to its debentures holders, any contrary provision in the instrument constituting the debentures,

(c) in its application to documents or information sent or supplied by a company to a person otherwise than in his capacity as a member or debenture holder, any contrary provision in an agreement between the company and that person.

1008. Interpretation of company communications provisions

(1) In the company communications provisions–

"address" includes a number or address used for the purposes of sending or receiving documents or information by electronic means,

"company" includes any body corporate,

"document" includes summons, notice, order or other legal process and registers.

(2) References in the company communications provisions to provisions of these Regulations authorising or requiring a document or information to be sent or supplied include all such provisions, whatever expression is used, and references to documents or information being sent or supplied shall be construed accordingly.

(3) References in the company communications provisions to documents or information being sent or supplied by or to a company include references to documents or information being sent or supplied by or to the directors of a company acting on behalf of the company.

Requirements as to independent valuation

1009. Application of valuation requirements

The provisions of sections 1013 to 1016 apply to the valuation and report required by–

(a) section 558 (allotment of shares of public company in consideration of non-cash asset),

(b) section 564 (transfer of non-cash asset to public company).

1010. Valuation by qualified independent person

(1) The valuation and report must be made by a person ("*the valuer*") who–

(a) is eligible for appointment as an auditor (see Part 37), and

(b) meets the independence requirement in section 1011.

(2) However, where it appears to the valuer to be reasonable for the valuation of the consideration, or part of it, to be made by (or for him to accept a valuation made by) another person who–

(a) appears to him to have the requisite knowledge and experience to value the consideration or that part of it, and

(b) is not an officer or employee of–

(i) the company, or

(ii) any other body corporate that is that company's subsidiary or holding company or a subsidiary of that company's holding company,

or a partner of or employed by any such officer or employee,

he may arrange for or accept such a valuation, together with a report which will enable him to make his own report under this section.

(3) The references in subsection (2)(b) to an officer or employee do not include an auditor.

(4) Where the consideration or part of it is valued by a person other than the valuer himself, the latter's report must state that fact and shall also–

(a) state the former's name and what knowledge and experience he has to carry out the valuation, and

(b) describe so much of the consideration as was valued by the other person, and the method used to value it, and specify the date of that valuation.

1011. The independence requirement

(1) A person meets the independence requirement for the purposes of section 1010 only if–

(a) he is not–

(i) an officer or employee of the company, or

(ii) a partner or employee of such a person, or a partnership of which such a person is a partner,

(b) he is not–

(i) an officer or employee of an associated undertaking of the company, or

(ii) a partner or employee of such a person, or a partnership of which such a person is a partner, and

(c) there does not exist between–

(i) the person or an associate of his, and

(ii) the company or an associated undertaking of the company,

a connection of any such description as may be specified by rules made by the Board.

(2) An auditor of the company is not regarded as an officer or employee of the company for this purpose.

(3) In this section–

"associated undertaking" means–

(a) a parent undertaking or subsidiary undertaking of the company, or

(b) a subsidiary undertaking of a parent undertaking of the company, and

"associate" has the meaning given by section 1012.

1012. Meaning of "associate"

(1) This section defines "associate" for the purposes of section 1011 (valuation: independence requirement).

(2) In relation to an individual, "associate" means–

(a) that individual's spouse or minor child or step-child,

(b) any body corporate of which that individual is a director, and

(c) any employee or partner of that individual.

(3) In relation to a body corporate, "associate" means–

(a) any body corporate of which that body is a director,

(b) any body corporate in the same group as that body, and

(c) any employee or partner of that body or of any body corporate in the same group.

(4) In relation to a partnership that is a legal person under the law by which it is governed, "associate" means–

(a) any body corporate of which that partnership is a director,

(b) any employee of or partner in that partnership, and

(c) any person who is an associate of a partner in that partnership.

(5) In relation to a partnership that is not a legal person under the law by which it is governed, "associate" means any person who is an associate of any of the partners.

1013. Valuer entitled to full disclosure

(1) A person carrying out a valuation or making a report with respect to any consideration proposed to be accepted or given by a company, is entitled to require from the officers of the company such information and explanation as he thinks necessary to enable him to–

(a) carry out the valuation or make the report, and

(b) provide any note required by section 553(3) or 557 (3) (note required where valuation carried out by another person).

(2) A person who knowingly or recklessly makes a statement to which this subsection applies that is misleading, false or deceptive in a material particular commits a contravention of these Regulations.

(3) Subsection (2) applies to a statement–

(a) made (whether orally or in writing) to a person carrying out a valuation or making a report, and

(b) conveying or purporting to convey any information or explanation which that person requires, or is entitled to require, under subsection (1).

(4) A person who commits the contravention referred to in subsection (2) is liable to a level 2 fine.

Courts and legal *proceedings*

1014. Power of Court to grant relief in certain cases

(1) If in proceedings for negligence, default, breach of duty or breach of trust against–

(a) an officer of a company, or

(b) a person employed by a company as auditor (whether he is or is not an officer of the company),

it appears to the Court hearing the case that the officer or person is or may be liable but that he acted honestly and reasonably, and that having regard to all the circumstances of the case (including those connected with his appointment) he ought

fairly to be excused, the Court may relieve him, either wholly or in part, from his liability on such terms as it thinks fit.

(2) If any such officer or person has reason to apprehend that a claim will or might be made against him in respect of negligence, default, breach of duty or breach of trust–

(a) he may apply to the Court for relief, and

(b) the Court has the same power to relieve him as it would have had if it had been a Court before which proceedings against him for negligence, default, breach of duty or breach of trust had been brought.

PART 34

COMPANIES: INTERPRETATION

Meaning of "subsidiary" and related expressions

1015. Meaning of "subsidiary" etc.

(1) A company is a "subsidiary" of another company, its "holding company", if that other company–

(a) holds a majority of the voting rights in it, or

(b) is a member of it and has the right to appoint or remove a majority of its board of directors, or

(c) is a member of it and controls alone, pursuant to an agreement with other members, a majority of the voting rights in it,

or if it is a subsidiary of a company that is itself a subsidiary of that other company.

(2) For the purposes of subsection (2) an undertaking shall be treated as a member of another undertaking–

(a) if any of its subsidiary undertakings is a member of that undertaking, or

(b) if any shares in that other undertaking are held by a person acting on behalf of the undertaking or any of its subsidiary undertakings.

(3) A company is a "wholly-owned subsidiary" of another company if it has no members except that other and that other's wholly-owned subsidiaries or persons acting on behalf of that other or its wholly-owned subsidiaries.

(4) Schedule 6 contains provisions explaining expressions used in this section and otherwise supplementing this section.

(5) In this section and that Schedule "company" includes any body corporate.

1016. Meaning of "subsidiary" etc: power to amend

(1) The Board may make rules amending the provisions of section 1015 (meaning of "subsidiary" etc) and Schedule 6 (meaning of "subsidiary" etc: supplementary provisions) so as to alter the meaning of the expressions "subsidiary", "holding company" or "wholly-owned subsidiary".

Meaning of "undertaking" and related expressions

1017. Meaning of "undertaking" and related expressions

(1) In these Regulations "undertaking" means–

(a) a body corporate or partnership, or

(b) an unincorporated association carrying on a trade or business, with or without a view to profit.

(2) In these Regulations references to shares–

(a) in relation to an undertaking with capital but no share capital, are to rights to share in the capital of the undertaking, and

(b) in relation to an undertaking without capital, are to interests–

(i) conferring any right to share in the profits or liability to contribute to the losses of the undertaking, or

(ii) giving rise to an obligation to contribute to the debts or expenses of the undertaking in the event of a winding up.

(3) Other expressions appropriate to companies shall be construed, in relation to an undertaking which is not a company, as references to the corresponding persons, officers, documents or organs, as the case may be, appropriate to undertakings of that description.

This is subject to provision in any specific context providing for the translation of such expressions.

(4) References in these Regulations to "fellow subsidiary undertakings" are to undertakings which are subsidiary undertakings of the same parent undertaking but are not parent undertakings or subsidiary undertakings of each other.

(5) In these Regulations "group undertaking", in relation to an undertaking, means an undertaking which is–

(a) a parent undertaking or subsidiary undertaking of that undertaking, or

(b) a subsidiary undertaking of any parent undertaking of that undertaking.

1018. Parent and subsidiary undertakings

(1) This section (together with Schedule 7) defines "parent undertaking" and "subsidiary undertaking" for the purposes of these Regulations.

(2) An undertaking is a parent undertaking in relation to another undertaking, a subsidiary undertaking, if–

(a) it holds a majority of the voting rights in the undertaking, or

(b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors, or

(c) it has the right to exercise a dominant influence over the undertaking–

(i) by virtue of provisions contained in the undertaking's articles, or

(ii) by virtue of a control contract, or

(d) it is a member of the undertaking and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in the undertaking.

(3) For the purposes of subsection (2) an undertaking shall be treated as a member of another undertaking–

(a) if any of its subsidiary undertakings is a member of that undertaking, or

(b) if any shares in that other undertaking are held by a person acting on behalf of the undertaking or any of its subsidiary undertakings.

(4) An undertaking is also a parent undertaking in relation to another undertaking, a subsidiary undertaking, if–

(a) it has the power to exercise, or actually exercises, dominant influence or control over it, or

(b) it and the subsidiary undertaking are managed on a unified basis.

(5) A parent undertaking shall be treated as the parent undertaking of undertakings in relation to which any of its subsidiary undertakings are, or are to be treated as, parent undertakings, and references to its subsidiary undertakings shall be construed accordingly.

(6) Schedule 7 contains provisions explaining expressions used in this section and otherwise supplementing this section.

(7) In this section and that Schedule references to shares, in relation to an undertaking, are to allotted shares.

Other definitions

1019. "Non-cash asset"

(1) In these Regulations "non-cash asset" means any property or interest in property, other than cash.

For this purpose "cash" includes (without limitation) currency other than United Arab Emirates Dirhams.

(2) A reference to the transfer or acquisition of a non-cash asset includes–

(a) the creation or extinction of an estate or interest in, or a right over, any property, and

(b) the discharge of a liability of any person, other than a liability for a liquidated sum.

1020. Meaning of "banking company" and "banking group"

(1) This section defines "banking company" and "banking group" for the purposes of these Regulations.

(2) "Banking company" " means a person who has a Financial Services Permission to carry on the Regulated Activity of Accepting Deposits, other than —

(a) a person who is not a company; and

(b) a person who has such permission only for the purpose of carrying on another Regulated Activity in accordance with such permission.

(3) References to a banking group are to a group where the parent company is a banking company or where–

(a) the parent company's principal subsidiary undertakings are wholly or mainly banking companies, and

(b) the parent company does not itself carry on any material business apart from the acquisition, management and disposal of interests in subsidiary undertakings.

"Group" here means a parent undertaking and its subsidiary undertakings.

(4) For the purposes of subsection (4)–

(a) a parent company's principal subsidiary undertakings are the subsidiary undertakings of the company whose results or financial position would principally affect the figures shown in the group accounts, and

(b) the management of interests in subsidiary undertakings includes the provision of services to such undertakings.

1021. "Employees' share scheme"

For the purposes of these Regulations an employees' share scheme is a scheme for encouraging or facilitating the holding of shares in or debentures of a company by or for the benefit of–

(a) the bona fide employees or former employees of–

(i) the company,

(ii) any subsidiary of the company, or

(iii) the company's holding company or any subsidiary of the company's holding company, or

(b) the spouses, surviving spouses, or minor children or step-children of such employees or former employees.

1022. Meaning of "prescribed"

Unless the context dictates otherwise, in these Regulations "prescribed" means prescribed by the Board or the Registrar, as the context dictates.

1023. Hard copy and electronic form and related expressions

(1) The following provisions apply for the purposes of these Regulations.

(2) A document or information is sent or supplied in hard copy form if it is sent or supplied in a paper copy or similar form capable of being read. References to hard copy have a corresponding meaning.

(3) A document or information is sent or supplied in electronic form if it is sent or supplied–

(a) by electronic means (for example, by e-mail or fax), or

(b) by any other means while in an electronic form (for example, sending a disk by post).

References to electronic copy have a corresponding meaning.

(4) A document or information is sent or supplied by electronic means if it is–

(a) sent initially and received at its destination by means of electronic equipment for the processing (which expression includes digital compression) or storage of data, and

(b) entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means.

References to electronic means have a corresponding meaning.

(5) A document or information authorised or required to be sent or supplied in electronic form must be sent or supplied in a form, and by a means, that the sender or supplier reasonably considers will enable the recipient–

(a) to read it, and

(b) to retain a copy of it.

(6) For the purposes of this section, a document or information can be read only if–

(a) it can be read with the naked eye, or

(b) to the extent that it consists of images (for example photographs, pictures, maps, plans or drawings), it can be seen with the naked eye.

(7) The provisions of this section apply whether the provision of these Regulations in question uses the words "sent" or "supplied" or uses other words (such as "deliver", "provide", "produce" or, in the case of a notice, "give") to refer to the sending or supplying of a document or information.

1024. Dormant companies

(1) For the purposes of these Regulations a company is "dormant" during any period in which it has no significant accounting transaction.

(2) A "significant accounting transaction" means a transaction that is required by section 375 to be entered in the company's accounting records.

(3) In determining whether or when a company is dormant, there shall be disregarded–

(a) any transaction arising from the taking of shares in the company by an initial member as a result of an undertaking of his in connection with the formation of the company,

(b) any transaction consisting of the payment of–

(i) a fee to the Registrar on a change of the company's name,

(ii) a fee to the Registrar on the re-registration of the company,

(iii) a fine under section 426 (default in filing accounts), or

(iv) a fee to the Registrar for the registration of a confirmation statement.

(4) Any reference in these Regulations to a body corporate other than a company being dormant has a corresponding meaning.

1025. Receiver or manager and certain related references

(1) Any reference in these Regulations to a receiver or manager of the property of a company, or to a receiver of it, includes a receiver or manager or (as the case may be) a receiver of part only of that property and a receiver only of the income arising from the property or from part of it.

(2) Any reference in these Regulations to the appointment of a receiver or manager under powers contained in an instrument includes an appointment made under powers that by

virtue of any law or regulation applicable in the Abu Dhabi Global Market are implied in and have effect as if contained in an instrument.

1026. Meaning of "contributory"

(1) In these Regulations "contributory" means every person liable to contribute to the assets of a company in the event of its being wound up.

(2) For the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, the expression includes any person alleged to be a contributory.

(3) The reference in subsection (1) to persons liable to contribute to the assets does not include a person so liable by virtue of a declaration by the Court under–

(a) section 251 (fraudulent trading) of the Insolvency Regulations 2015, or

(b) section 252 (wrongful trading) of the Insolvency Regulations 2015.

General

1027. References to requirements of these Regulations

References in the company law provisions of these Regulations to the requirements of these Regulations include the requirements of rules made under them.

1028. Minor definitions: general[30]

(1) In these Regulations–

"body corporate" and "corporation" include a body incorporated other than under these Regulations, but do not include–

(a) a corporation sole, or

(b) a partnership that, whether or not a legal person, is not regarded as a body corporate under the law by which it is governed,

"conditional sale agreement" means an agreement for the sale of goods or land under which the purchase price or part of it is payable by instalments, and the property in the goods or land is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods or land) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled,

"financial institution" means-

(a) an Authorised Person;

(b) any person which carries out as its principal business an activity which would, if carried out in the Abu Dhabi Global Market, be a Regulated Activity; and

(c) is not one of the following-

A. a governmental organisation, including the Central Bank of any State; or

[30] Amended 17 March 2022

B. a multilateral development bank;

"firm" means any entity, whether or not a legal person, that is not an individual and includes a body corporate, a corporation sole and a partnership or other unincorporated association,

"hire-purchase agreement" means an agreement, other than a conditional sale agreement, under which−

goods are bailed in return for periodical payments by the person to whom they are bailed, and

the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs−

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event;

"non-ADGM company" means a body corporate not formed or registered under these Regulations.

"officer", in relation to a body corporate, includes a director, manager or secretary,

"parent company" means a company that is a parent undertaking (see section 1018 and Schedule 7), and

"working day", in relation to a company, means every day except Saturday, Sunday and public holidays in the United Arab Emirates.

(2) Terms used in these Regulations which are defined in the Financial Services and Markets Regulations 2015 (including where the terms are capitalised in those regulations) shall have the meanings given to them in those regulations.

1029. Index of defined expressions

Schedule 3 contains an index of provisions defining or otherwise explaining expressions used in these Regulations.

Part 35

AUDITORS

Chapter 1

INTRODUCTORY

1030. Main purposes of Part

The main purposes of this Part are–

(a) to secure that only persons who are properly supervised and appropriately qualified are appointed as auditors, and

(b) to secure that audits by persons so appointed are carried out properly, with integrity and with a proper degree of independence.

1031. Meaning of "auditor" etc.

(1) In this Part "auditor" means a person appointed as auditor under Part 15 of these Regulations and the expressions "audit" and "audit work" are to be construed accordingly.

(2) In this Part "audited person" means the person in respect of whom an audit is conducted.

Chapter 2

INDIVIDUALS AND FIRMS

1032. Eligibility for appointment as an auditor[31]

No firm may be appointed or act as an auditor of an audited person unless the first-mentioned firm is:

(a) registered or treated as having been registered as an auditor pursuant to rules made by the Registrar under section 1032A;

(b) holds any permit as may be required to act as such auditor; and

(c) is otherwise in compliance with the requirements of this Part.

1032A. Registration of auditors and audit principals

(1) The Registrar may make rules which require or allow:

(a) the registration of auditors and certain individuals who are appointed by an auditor with responsibility for managing the conduct or provision of audit services by the auditor or for signing on behalf of the auditor audit or other reports or any other matters as may be provided for in such rules ("audit principals");

(b) an auditor or an audit principal to apply to the Registrar for the issuance to it of a registration or permit to act as a registered auditor or registered audit principal for such categories of company, entity or body carrying on such business or activities as may be prescribed by the Registrar in such rules or in such registration or permit;

(c) auditors and audit principals whose names are entered on the register to comply with or satisfy such conditions or requirements as may be prescribed in or pursuant to such rules or any such registration or permit as may be issued to them as mentioned in (b) above;

(d) the Registrar to exercise such powers and rights with respect to the regulation of such auditors and audit principals as the Registrar may consider appropriate, including powers to impose sanctions, whether by way of fine, censure or

[31] Amended 2 September 2021

otherwise, on any auditor or audit principal who contravenes any requirement applicable to it or him pursuant to such rules and, in such circumstances as such rules may prescribe, to suspend or withdraw any registration of, or the issue of any registration or permit to, an auditor or audit principal pursuant to such rules; and

(e) the Registrar from time to time to amend, revise, withdraw or supplement any rules so made by him as he may consider appropriate or desirable for the purposes of such rules.

(2) The Registrar may, on the application of a person to whom Part 35 applies, direct by notice in writing to that person, that any of the rules made by the Registrar pursuant to section 1032A:

(a) are not to apply to that person, as specified in a direction notice from the Registrar, or

(b) are to apply to that person with modifications, specified in a direction notice from the Registrar.

(3) The Registrar may only exercise the direction power in subsection (2) where, in the reasonable discretion of the Registrar, public policy grounds exist.

(4) The Registrar may request from an applicant under subsection (2) any information it reasonably requires to exercise the Registrar's discretion.

1032B. Registration of auditors and Commercial Licences

The registration of an auditor as a registered auditor by the Registrar shall be deemed to be a "licensed person" with respect to all controlled activities relating to audit services, for the purposes of the Commercial Licensing Regulations 2015. For the avoidance of doubt, these Regulations, and not the Commercial Licensing Regulations 2015, shall apply with respect to all licensing matters for registered auditors.

1033. Effect of ineligibility[32]

(1) If at any time a firm who has been appointed or is acting as an auditor, or a person who has been appointed or is acting as an audit principal, ceases to be a registered auditor or a registered audit principal under rules made pursuant to section 1032A, such a firm or person must immediately:

(a) resign each appointment (with immediate effect) that they may hold as an auditor or audit principal in relation to an audited person, and

(b) give notice in writing to the audited person that they have resigned such appointment by reason of being no longer registered as an auditor or, as the case may be, audit principal under rules made pursuant to section 1032A.

(2) A firm or person (as the case may be) will commit a contravention of these Regulations if:

(a) they act as an auditor or audit principal in contravention of subsection (1), or

[32] Amended 2 September 2021

(b) they fail to give the notice mentioned in paragraph (b) of subsection (1) in accordance with that subsection.

(3) A firm, or person, who commits the contravention referred to in subsection (2) shall be liable to up to a level 6 fine.

(4) In proceedings against a firm or person for any contravention under this section, it is a defence for them to show that they did not know and had no reason to believe that they had ceased to be a registered auditor or registered audit principal.

1034. Independence requirement

(1) A person may not act as an auditor of an audited person if one (1) or more of subsections (2), (3) and (4) apply to him.

(2) This subsection applies if any individual responsible for audit work is–

(a) an officer or employee of the audited person, or

(b) a partner or employee of such a person, or a partnership of which such a person is a partner.

(3) This subsection applies if any individual responsible for audit work is–

(a) an officer or employee of an associated undertaking of the audited person, or

(b) a partner or employee of such a person, or a partnership of which such a person is a partner.

(4) This subsection applies if there exists, between–

(a) the person or an associate of his, and

(b) the audited person or an associated undertaking of the audited person,

a connection of any such description as may be specified by rules made by the Board.

(5) An auditor of an audited person is not to be regarded as an officer or employee of the person for the purposes of subsections (2) and (3).

(6) In this section "associated undertaking", in relation to an audited person, means–

(a) a parent undertaking or subsidiary undertaking of the audited person, or

(b) a subsidiary undertaking of a parent undertaking of the audited person.

1035. Effect of lack of independence[33]

(1) If at any time during their term of office an auditor becomes prohibited from acting by section 1034(1), they must immediately–

(a) resign their office (with immediate effect), and

(b) give notice in writing to the audited person that they have resigned by reason of their lack of independence.

(2) An auditor will commit a contravention of these Regulations if –

[33] Amended 2 September 2021

(a) they act as an auditor in contravention of section 1034(1), or

(b) they fail to give the notice mentioned in paragraph (b) of subsection (1) in accordance with that subsection.

(3) An auditor who commits the contravention referred to in subsection (2)(a) shall be liable to up to a level 4 fine.

(4) An auditor who commits the contravention referred to in subsection (2)(b) shall be liable to a level 3 fine.

(5) In proceedings against an auditor for any contravention under this section it is a defence for them to show that they did not know and had no reason to believe that they were, or had become, prohibited from acting as auditor of the audited person by section 1034(1).

1036. Effect of appointment of a partnership

(1) This section applies where a partnership constituted under the laws of–

(a) the Abu Dhabi Global Market, or

(b) any other country or territory in which a partnership is not a legal person,

is by virtue of this Chapter appointed as auditor of an audited person.

(2) Unless a contrary intention appears, the appointment is an appointment of the partnership as such and not of the partners.

(3) Where the partnership ceases, the appointment is to be treated as extending to–

(a) any appropriate partnership which succeeds to the practice of that partnership, or

(b) any other appropriate person who succeeds to that practice having previously carried it on in partnership.

(4) For the purposes of subsection (3)–

(a) a partnership is to be regarded as succeeding to the practice of another partnership only if the members of the successor partnership are substantially the same as those of the former partnership, and

(b) a partnership or other person is to be regarded as succeeding to the practice of a partnership only if it or he succeeds to the whole or substantially the whole of the business of the former partnership.

(5) Where the partnership ceases and the appointment is not treated under subsection (3) as extending to any partnership or other person, the appointment may with the consent of the audited person be treated as extending to an appropriate partnership, or other appropriate person, who succeeds to–

(a) the business of the former partnership, or

(b) such part of it as is agreed by the audited person is to be treated as comprising the appointment.

(6) For the purposes of this section, a partnership or other person is "appropriate" if it or he–

(a) is eligible for appointment as an auditor by virtue of this Chapter, and

(b) is not prohibited by section 1034(1) from acting as auditor of the audited person.

1037. [Deleted][34]

1038. [Deleted][35]

Chapter 3

THE REGISTER OF AUDITORS ETC

1039. The register of auditors[36]

(1) The Registrar may make rules which require one or more registers of the firms eligible for appointment as an auditor, or the persons eligible for appointment as an audit principal, to be kept.

(2) The rules may require each firm or person's entry in the register to contain relevant information about firms or persons recorded therein, including but not limited to–

(a) a name and address,

(b) in the case of a firm eligible for appointment as an auditor, the specified information relating to the individuals responsible for audit work on its behalf,

(c) in the case of a firm eligible for appointment as an auditor by virtue of Chapter 2, the information mentioned in sub-section (3).

(3) The information referred to in subsection (2)(c) is–

(a) in relation to a body corporate, the name and address of each person who is a director of the body or holds any shares in it,

(b) in relation to a partnership, the name and address of each partner.

(4) The rules may provide that different parts of the register are to be kept by different persons.

(5) The rules may impose such obligations as the Registrar thinks fit on–

(a) recognised professional bodies, and

(b) persons eligible for appointment as an auditor.

(6) The rules may include–

(a) provision requiring that specified entries in the register be open to inspection at times and places specified or determined in accordance with the rules,

(b) provision enabling a person to require a certified copy of specified entries in the register.

(7) In this section "specified" means specified by rules made under this section.

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[34] Amended 2 September 2021
[35] Amended 2 September 2021
[36] Amended 2 September 2021

(8) The Board may make rules which make provision for the charging of fees for inspection, or the provision of copies of the register maintained under this section, such fees to be of such reasonable amount as may be specified or determined in accordance with those rules.

1040. [Deleted][37]

Chapter 4

SUPPLEMENTARY AND GENERAL

1041. Registrar's power to require second audit of a company

(1) This section applies where a person appointed as auditor of a company was not an appropriate person for any part of the period during which the audit was conducted.

(2) The Registrar may direct the company concerned to retain an appropriate person–

(a) to conduct a second audit of the relevant accounts, or

(b) to review the first audit and to report (giving his reasons) whether a second audit is needed.

(3) For the purposes of subsections (1) and (2) a person is "appropriate" if he–

(a) is eligible for appointment as an auditor, and

(b) is not prohibited by section 1034(1) (independence requirement) from acting as auditor of the company.

(4) The company will commit a contravention of these Regulations if–

(a) it fails to comply with a direction under subsection (2) within the period of 21 days beginning with the date on which it is given, or

(b) it has previously committed a contravention under this subsection and the failure to comply with the direction which led to the contravention continues after the contravention.

(5) The company must–

(a) send a copy of a report under subsection (2)(b) to the Registrar of companies, and

(b) if the report states that a second audit is needed, take such steps as are necessary for the carrying out of that audit.

(6) The company will commit a contravention of these Regulations if–

(a) it fails to send a copy of a report under subsection (2)(b) to the Registrar within the period of 21 days beginning with the date on which it receives it,

(b) in a case within subsection (5)(b), it fails to take the steps mentioned immediately it receives the report, or

[37] Amended 2 September 2021

(c) it has previously committed a contravention under this subsection and the failure to send a copy of the report, or take the steps, which led to the contravention continues after the contravention.

(7) A company who commits a contravention under this section shall be liable to up to a level 4 fine.

1042. Supplementary provision about second audits

(1) If a person accepts an appointment, or continues to act, as auditor of a company at a time when he knows he is not an appropriate person, the company may recover from him any costs incurred by it in complying with the requirements of section 1041.

For this purpose "appropriate" is to be construed in accordance with subsection (3) of that section.

(2) Where a second audit is carried out under section 1041, any provision of these Regulations applying in relation to the first audit applies also, in so far as practicable, in relation to the second audit.

(3) A direction under section 1041(2) is, on the application of the Board, enforceable by injunction.

1043. [Deleted][38]

1044. Delegation of the Registrar's functions

(1) The Registrar may make an order under this section (a "delegation order") for the purpose of enabling functions of the Registrar under this Part to be exercised by another public authority in the Abu Dhabi Global Market.

(2) A delegation order has the effect of transferring to the body designated by it all functions of the Registrar under this Part–

(a) subject to such exceptions and reservations as may be specified in the order, and

(b) except his functions in relation to the body itself.

(3) A delegation order may confer on the body designated by it such other functions supplementary or incidental to those transferred as appear to the Registrar to be appropriate.

(4) A delegation order may be amended or, if it appears to the Registrar that it is no longer in the public interest that the order should remain in force, revoked by a further order under this section.

(5) Where functions are transferred or resumed, the Registrar may by order confer or, as the case may be, take away such other functions supplementary or incidental to those transferred or resumed as appear to him to be appropriate.

[38] Amended 2 September 2021

1045. Meaning of "associate"

(1) In this Part "associate", in relation to a person, is to be construed as follows.

(2) In relation to an individual, "associate" means–

(a) that individual's spouse or minor child or step-child,

(b) any body corporate of which that individual is a director, and

(c) any employee or partner of that individual.

(3) In relation to a body corporate, "associate" means–

(a) any body corporate of which that body is a director,

(b) any body corporate in the same group as that body, and

(c) any employee or partner of that body or of any body corporate in the same group.

(4) In relation to a partnership constituted under the laws of the Abu Dhabi Global Market, or the law of any other country or territory in which a partnership is not a legal person, "associate" means any person who is an associate of any of the partners.

1046. Minor definitions

(1) In this Part, unless a contrary intention appears–

"address" means–

(a) in relation to an individual, his usual residential or business address,

(b) in relation to a firm, its registered or principal office in the Abu Dhabi Global Market,

"company" means any company or other body the accounts of which must be audited in accordance with Part 15,

"director", in relation to a body corporate, includes any person occupying in relation to it the position of a director (by whatever name called) and any person in accordance with whose directions or instructions (not being advice given in a professional capacity) the directors of the body are accustomed to act,

"firm" means any entity, whether or not a legal person, which is not an individual,

"group", in relation to a body corporate, means the body corporate, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company,

"holding company" and "subsidiary" are to be read in accordance with section 1015 and Schedule 6,

"officer", in relation to a body corporate, includes a director, a manager, a secretary or, where the affairs of the body are managed by its members, a member,

*"*parent undertaking" and "subsidiary undertaking" are to be read in accordance with section 1018 and Schedule 7.

(2) The Board may make such modifications of this Part as appear to it to be necessary or appropriate for the purposes of its application in relation to any firm, or description of firm, which is not a body corporate or a partnership.

Part 36

CELL COMPANIES

Chapter 1

GENERAL PROVISIONS

1047. Cell companies

(1) A company is an incorporated cell company if its articles provide that it is an incorporated cell company.

(2) A company is a protected cell company if its articles provide that it is a protected cell company.

(3) A cell company may be−

(a) a public or private company, and

(b) a limited company (whether limited by shares or by guarantee) or an unlimited company.

(4) A cell company cannot be a restricted scope company and a restricted scope company cannot be or become a cell company.

1048. Cell companies may create cells

(1) A cell company may, by special resolution by its non-cell members, resolve to create one or more cells.

(2) That special resolution−

(a) must assign to the cell a name that complies with these Regulations and rules made by the Registrar, and

(b) must specify the terms of the articles of the cell that will apply to the cell in compliance with Chapter 2 of Part 3 (articles of association) of these Regulations.

(3) A cell company may provide in the special resolution mentioned in subsection (1) that a cell it creates shall be wound up and dissolved upon−

(a) the bankruptcy, winding up, death, expulsion, insanity, resignation or retirement of any cellular member of the cell, or

(b) the happening of some other event that is not the expiration of a fixed period of time, or

(c) the expiration of a fixed period of time,

and this shall be taken to form part of the articles of that cell.

(4) A cell company may also provide in the special resolution mentioned in subsection (1)−

(a) that, in respect of the cell it creates, there may be issued shares in one or more classes, or

(b) that the cell it creates may have a guarantee member or guarantee members and this shall be taken to form part of the articles of that cell.

(5) There shall be taken to be included in the articles of a cell–

(a) a provision that the cell may not own shares in, or otherwise be a member of, its cell company, and

(b) unless the contrary intention appears in the articles, a provision that the cell may own shares in, or otherwise be a member of, any other cell of its cell company.

(6) The articles of a cell may be amended–

(a) in the manner set out in those articles, or

(b) in the absence of such a provision, by special resolution of both the cell and of the company of which it is a cell.

1049. Effect of filing of special resolution creating a cell

(1) When a cell company resolves by special resolution to create a cell, it shall file the resolution in accordance with section 27 (resolutions or agreements to be forwarded to Registrar) with the Registrar. The cell company must include with such filing such evidence as the Registrar may require that the creation of such cell has been approved by the Financial Services Regulator.

(2) A special resolution filed in accordance with subsection (1) shall have effect as if it were an application for registration delivered to the Registrar in accordance with section 6 (registration documents) for the purposes of applying to form a company in accordance with that section.

(3) The cell shall be taken to have been created when the Registrar issues–

(a) in the case of a cell of an incorporated cell company, a certificate of incorporation in respect of the cell, or

(b) in the case of a cell of a protected cell company, a certificate of recognition in respect of the cell.

1050. Status of cells

(1) Subject to this section, a cell of a cell company–

(a) in the case of a cell of an incorporated cell company, is a company, and

(b) in the case of a cell of a protected cell company, is to be treated as a company registered under these Regulations for the purpose of the application to it of these Regulations.

(2) Accordingly, save as otherwise provided by this Part, the provisions of these Regulations shall apply to a cell of a cell company as if a reference in these Regulations–

(a) to a company were a reference to the cell,

(b) to the directors of a company were a reference to the directors of the cell,

(c) to the articles of a company were a reference to the articles of the cell,

(d) to members of a company were a reference to the members of the cell,

(e) to shares in a company were a reference to shares in the cell,

(f) to assets and liabilities of a company were a reference to the assets and liabilities of the cell, and

(g) to the share capital of a company were a reference to the share capital of the cell.

(3) A cell of a cell company shall have the same secretary and registered office as its cell company.

(4) The duties imposed on a company by section 157 (in relation to directors) and by section 293 (in relation to a secretary) shall, in the case of a cell of a protected cell company, be performed by its cell company.

(5) A cell of an incorporated cell company shall notify the incorporated cell company within 14 days of a director of the cell being appointed or of a director of the cell ceasing to be a director.

(6) If–

(a) a cell company fails to comply with subsection (4), or

(b) a cell fails to comply with subsection (5)

a contravention of these Regulations is committed by it and every officer of it who is in default.

(7) A director of a cell shall not be taken, by virtue only of being such a director, to have any duties or liabilities in respect of–

(a) the cell company in relation to the cell, or

(b) any other cell of the cell company.

(8) A director of a cell shall not be entitled, by virtue only of being such a director, to obtain from the cell company in relation to either the cell company or any other cell of the cell company, any information in respect of the cell company or any other cell of the cell company.

(9) A cell of a cell company is not a subsidiary of the cell company.

(10) Where a protected cell company –

(a) enters into a transaction in respect of a particular cell of the company, or

(b) incurs a liability arising from an activity or asset of a particular cell,

subject to the provisions of Chapter 2 relating to the liability of protected cell companies and their cells, a claim by any person in connection with the transaction or liability extends only to the cellular assets of the cell.

(11) Where a cell of an incorporated cell company–

(a) enters into a transaction, or

(b) incurs a liability arising from an activity or asset of that cell,

a claim by any person in connection with the transaction or liability extends only to the assets of the cell.

(12) Where a protected cell company–

(a) enters into a transaction in its own right and not in respect of any of its cells, or

(b) incurs a liability arising from an activity of the company in its own right and not in respect of any of its cells, or

(c) incurs a liability arising from an asset held by the company in its own right and not in respect of any of its cells,

subject to the provisions of Chapter 2 relating to the liability of protected cell companies and their cells, a claim by any person in connection with the transaction or liability extends only to the non-cellular assets of the protected cell company.

(13) Where an incorporated cell company–

(a) enters into a transaction, or

(b) incurs a liability arising from an activity of that company, or

(c) incurs a liability arising from an asset held by that company,

a claim by any person in connection with the transaction or liability extends only to the assets of the incorporated cell company and not to the assets of any of its cells.

1051. Register of members of cells

(1) The duties imposed on a company by Chapter 2 of Part 8 (register of members) and Part 20 (certification and transfer of securities) of these Regulations shall, in the case of a cell of a cell company, be performed by its cell company.

(2) Accordingly, a cell company must, in addition to keeping a register of its members, keep a register of the members of each of its cells, which it must keep in accordance with Chapter 2 of Part 8.

(3) If a cell company fails to comply with subsection (2), a contravention of these Regulations is committed by it and every officer of it who is in default.

(4) The only persons entitled under section 121 (rights to inspect and require copies) to inspect or require a copy of all or any part of any register of members of a cell shall be persons who are members of such cell.

(5) A person who commits the contravention referred to in subsection (3) shall be liable to a level 1 fine.

1052. Confirmation Statement in respect of cells

(1) Section 778 (duty to deliver confirmation statements) shall not apply to a cell of a cell company.

(2) However, the cell company must–

(a) include in its confirmation statement the information required by sections 778 to 782 (inclusive) in respect of each cell of the company, and

(b) in respect of each of its cells – deliver to the Registrar a copy of so much of its confirmation statement as relates to the cell.

(3) If a cell company fails to comply with subsection (2), a contravention of these Regulations is committed by it.

(4) The information specified in section 782 (contents of confirmation statement: information about shareholders) which is contained in any confirmation statement made by a cell company in respect of any cell shall not be made available by the Registrar to any person who is not a member or a director or the secretary of such cell.

(5) A cell company who commits the contravention referred to in subsection (3) shall be liable to a level 2 fine.

1053. Accounting records of cell companies

(1) Section 376 (duty to keep accounting records) shall not apply to a cell of a cell company.

(2) However, the cell company must keep accounting records in respect of each of its cells that are sufficient to show and explain the cell's transactions and are such as to–

(a) disclose with reasonable accuracy, at any time, the financial position of the cell at that time, and

(b) enable its directors to ensure that any accounts prepared by the company in respect of the cell comply with the requirements of these Regulations.

(3) The accounting records kept by a cell company under section 375 (duty to keep accounting records) may include matters included by it in any accounting records kept by the company under subsection (2).

(4) If a cell company fails to comply with subsection (2) a contravention of these Regulations is committed by it and every officer of the company who is in default.

(5) It is a defence for an officer charged with such an offence to show that he acted honestly and that in the circumstances in which the cell company's business was carried on the default was excusable.

(6) A person who commits the contravention referred to in subsection (4) shall be liable to a fine of up to level 5.

1054. Accounts of cell companies

(1) Subject to sub-section (2), section 383 (duty to prepare individual accounts) and sections 389 (duty to prepare group accounts) shall not apply to a cell of a cell company.

(2) However, the cell company must prepare separate accounts, in accordance with section 383 that–

(a) fairly present the profit or loss of each cell of the company for the period mentioned in section 383 and of the state of each cell's affairs at the end of that period taking into account only the assets and liabilities solely attributable to the cell, and

(b) comply with any other applicable requirement of these Regulations (including as to audit under Part 15 of these Regulations).

(3) The accounts of a cell company prepared by it in respect of the company in accordance with section 383 need not include matters included by it in any accounts prepared by it in accordance with subsection (2).

(4) Subject to any provision in the articles of a cell of a cell company or of the company to the contrary–

(a) a member of the cell company who is not a member of the cell shall only be entitled to be provided with so much of the accounts of the company as is required by subsection (3), and

(b) a member of a cell of the company shall only be entitled to be provided with so much of the accounts as is mentioned in subsection (2) as relate to the cell of which the member is a member.

(5) If a cell company fails to comply with subsection (2) a contravention of these Regulations is committed by it and every officer of the company who is in default.

(6) It is a defence for an officer charged with such an offence to show that he acted honestly and that in the circumstances in which the cell company's business was carried on the default was excusable.

(7) Section 421 (filing obligations of companies generally) shall not apply to any accounts required to be prepared in accordance with subsection (2).

(8) A person who commits the contravention referred to in subsection (5) shall be liable to a level 5 fine.

1055. Incorporation of a cell independent of a cell company

(1) A cell of a cell company may apply to the Registrar to be incorporated as a company independent of that cell company.

(2) If the articles of the cell are silent or do not provide otherwise, the application must be approved by a special resolution of the members of the cell or, if the cell has more than one class of members, a special resolution of each class of members.

(3) The application must include the information that would be required under Part 2 (company formation) were the cell being incorporated under these Regulations otherwise than by virtue of this section.

(4) In respect of an application under this section the Registrar has all the powers given under Part 2.

(5) Where a cell has made an application under this section, a member of the cell who objects to the cell being incorporated as a company independent of its cell company may apply to the Court for an order under section 858 (petition by company member) on the grounds that the incorporation or the terms of the incorporation unfairly prejudice his interests.

(6) An application may not be made under subsection (5) after the expiration of the period of 30 days following the application being made under subsection (1).

(7) When a cell is registered as a separate company by virtue of this section, that separate company shall no longer be a cell of the cell company, subject always to the following–

(a) where the cell was a cell of an incorporated cell company, all property and rights to which the cell was entitled immediately before its registration remain the property and rights of the separate company,

(b) where the cell was a cell of a protected cell company, all property and rights of that company in respect of the cell immediately before its registration become by virtue of such registration the property and rights of the separate company,

(c) where the cell was a cell of an incorporated cell company, the separate company remains subject to all civil liabilities, and all contracts, debts and other obligations, to which the cell was subject immediately before its registration,

(d) where the cell was a cell of a protected cell company, all contracts, debts and other obligations of that company in respect of the cell, to which the protected cell company was subject immediately before the registration of the separate company, become by virtue of such registration the contracts, debts and other obligations of the separate company,

(e) where the cell was a cell of an incorporated cell company, all actions and other legal proceedings which, immediately before the registration of the separate company, were pending by or against the cell may be continued by or against the separate company, and

(f) where the cell was a cell of a protected cell company, all actions and other legal proceedings which, immediately before the registration of the separate company, were pending by or against the protected cell company in respect of the cell may by virtue of such registration be continued by or against the separate company.

(8) The operation of subsection (7)(b) and (d) shall not be regarded as giving rise to any–

(a) breach of contract or confidence or otherwise as a civil wrong,

(b) breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of rights or liabilities, or

(c) remedy by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship.

1056. Transfer of cells of cell companies

(1) A cell of a cell company may be transferred to another cell company.

(2) The cell companies shall enter into a written agreement that sets out the terms of the transfer (in this section referred to as the "transfer agreement").

(3) A transfer of a cell is approved when the directors of each cell company have approved the transfer agreement and the agreement is approved by a special resolution of the cell company to which the cell is being transferred and–

(a) when the transfer agreement is consented to by all the members of the cell being transferred and all the creditors (if any) of that cell, or

(b) if the agreement of all the creditors of the cell cannot be obtained, when the transfer is authorised by a special resolution of the cell and sanctioned by the

Court on it being satisfied that no creditor of the cell will be materially prejudiced by the transfer.

(4) Within 14 days of a transfer agreement being approved, the cell company to which the cell is being transferred must deliver to the Registrar in accordance with section 27 (resolutions or agreements to be forwarded to Registrar) a copy of the special resolution of that company approving the transfer agreement together with–

(a) a copy of the transfer agreement,

(b) a copy of any new articles of the cell being transferred,

(c) such evidence as the Registrar may require that the transfer of such cell has been approved by the Financial Services Regulator, and

(d) a declaration made in accordance with subsection (5), signed by each director of the cell company transferring the cell.

(5) The declaration must state that each such director believes on reasonable grounds that–

(a) the cell being transferred is able to discharge its liabilities as they fall due,

(b) there are no creditors of the cell company from which the cell is being transferred whose interests will be unfairly prejudiced by the merger, and

(c) the transfer agreement has been approved in accordance with this section.

(6) If a cell company fails to deliver the documents set out in subsection (4) within the period mentioned in that subsection, a contravention of these Regulations is committed by it and every officer of it in default.

(7) A person who commits the contravention referred to in subsection (6) shall be liable to a level 2 fine.

(8) If a director makes a declaration under subsection (5) without having the grounds to do so, a contravention of these Regulations is committed by him.

(9) A person who commits the contravention referred to in subsection (8) shall be liable to a fine of up to level 5.

(10) Section 1049(2) shall apply in respect of the documents delivered to the Registrar in accordance with subsection (4) as if the documents were a special resolution filed in accordance with section 1049(1).

(11) Upon delivery to the Registrar of the documents referred to in subsection (4), the Registrar shall, if those documents comply with this section–

(a) register the transfer of the cell and any new articles of the cell,

(b) issue to the cell a new certificate of incorporation or recognition in accordance with section 1049(1), and

(c) record that the cell has ceased to be a cell of the company that transferred the cell.

(12) Upon the issue of the new certificate of incorporation or recognition, by virtue of such issue–

(a) the cell ceases to be a cell of the cell company that transferred it,

(b) the cell becomes a cell of the company to which it has been transferred,

(c) the articles of the cell shall be as provided for in the transfer agreement,

(d) where the cell was a cell of an incorporated cell company, all property and rights to which the cell was entitled immediately before the issue of the new certificate remain the property and rights of the cell if the transfer is to an incorporated cell company or, if the transfer is to a protected cell company, become the property and rights of that company in respect of the cell,

(e) where the cell was a cell of an incorporated company, the liabilities, and all contracts, debts and other obligations to which the cell was subject immediately before the issue of the new certificate remain the liabilities, contracts, debts and other obligations of the cell if the transfer is to an incorporated cell company or if the transfer is to a protected cell company, become the liabilities, contracts, debts and other obligations of that company in respect of the cell,

(f) where the cell was a cell of an incorporated cell company, all actions and other legal proceedings which, immediately before the issue of the new certificate were pending by or against the cell may be continued by or against the cell if the transfer is to an incorporated cell company or, if the transfer is to a protected cell company by or against that company in respect of the cell,

(g) where the cell was a cell of a protected cell company, all property and rights of that company in respect of the cell immediately before the issue of the new certificate become the property and rights of the cell if the transfer is to an incorporated cell company or, if the transfer is to a protected cell company, the property and rights of that company in respect of that cell,

(h) where the cell was a cell of a protected cell company, all liabilities, contracts, debts and other obligations of that company in respect of the cell, to which the protected cell company was subject immediately before the issue of the new certificate, become the liabilities, contracts, debts and other obligations of the cell if the transfer is to an incorporated cell company or, if the transfer is to a protected cell company, the liabilities, contracts, debts and other obligations of that company in respect of the cell, and

(i) where the cell was a cell of a protected cell company, all actions and other legal proceedings that, immediately before the issue of the new certificate, were pending by or against the protected cell company in respect of the cell may be continued by or against the cell if the transfer is to an incorporated cell company or, if the transfer is to a protected cell company, against that company is respect of the cell.

(13) The operation of subsection (12) shall not be regarded as giving rise to any –

(a) breach of contract or confidence or otherwise as a civil wrong,

(b) breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of rights or liabilities, or

(c) remedy by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship.

(14) A cell may not be transferred under this section if the transfer would be inconsistent with the articles of the cell, the cell company transferring the cell or the cell company to which it is to be transferred.

(15) A company that is not a cell company and a cell company may enter into an agreement to provide that the company that is not a cell company shall become a cell of the cell company.

(16) Where subsection (15) applies–

(a) the agreement mentioned in that paragraph shall have effect for the purpose of this section as if it were a transfer agreement, and

(b) this section shall otherwise apply in respect of the transfer as if the company that is not a cell company were a cell of an incorporated cell company.

1057. Application of the Insolvency Regulations 2015 to cell companies

(1) Where a cell company with one or more cells is being wound up under the Insolvency Regulations 2015 the company shall not be taken to have no assets and no liabilities while the company continues to have any such cell.

(2) Accordingly, in the course of the winding up of the company, each cell of the company must–

(a) be transferred to another cell company,

(b) be wound up,

(c) be continued as a body corporate or cell under the law of another jurisdiction,

(d) be incorporated independently of the cell company, or

(e) be merged with another company.

1058. Names of incorporated cell companies

(1) The name of an incorporated cell company must end with the words 'Incorporated Cell Company' or with the abbreviation 'ICC'.

(2) A company that is registered with a name that ends with the words 'Incorporated Cell Company' or the abbreviation 'ICC' may, in setting out or using its name for any purpose under these Regulations, do so in full or in abbreviation form, as it determines.

(3) An incorporated cell company must assign a distinctive name to each of its cells that–

(a) distinguishes the cell from any other cell of the company, and

(b) ends with the words 'Incorporated Cell' or with the abbreviation 'IC'.

(4) Sections 52 and 53 (specifying how the name of a limited company must end) shall not apply to a cell of an incorporated cell company where the cell is a limited company.

1059. Restriction on amendment of articles

(1) The powers conferred by sections 19 and 20 (relating to the alteration of articles) on a company to amend its articles shall not be exercisable by a company to provide for it to be a cell company unless–

(a) the amendment is consented to by all the members of the company and all the creditors of the company, or

(b) if the consent of all the creditors of the company cannot be obtained, the amendment is authorised by a special resolution of the company and sanctioned by the Court on it being satisfied that no creditor will be materially prejudiced by the amendment.

(2) The powers conferred by sections 19 and 20 on a cell company to amend its articles shall not be exercisable by a cell company to provide for it to cease to be a cell company, or for it to convert from an incorporated cell company to a protected cell company or from a protected cell company to an incorporated cell company, unless–

(a) the amendment is consented to by all the members of the company, all the members of the each cell of the company, and all the creditors of the company and of each cell of the company, or

(b) where the consent of all the creditors of the company and of each cell of the company cannot be obtained, the amendment is authorised by a special resolution of the company and of each cell of the company, and sanctioned by the Court on it being satisfied that no such creditor will be materially prejudiced by the amendment.

(3) Where a company seeks to change its status in accordance with subsection (1) or subsection (2) the Registrar shall issue under section 12 (issue of certificate of incorporation) a certificate of incorporation that is appropriate to the amended status of the company if there is delivered to the Registrar–

(a) a copy of the special resolution that amends its constitution and its name, and

(b) evidence satisfactory to the Registrar that the requirements of subsection (1) or subsection (2), as appropriate, have been met.

(4) Where a company changes its status in accordance with subsection (1) or subsection (2) the change of status shall take effect when the Registrar issues a certificate of incorporation in accordance with subsection (3).

(5) Where a company changes its status in accordance with subsection (1) or subsection (2) the special resolution and/or other provision required under sections 19 and/or 20 for it to do so must include any change of name of the company necessary for it to comply with these Regulations.

(6) Where, in accordance with subsection (2), a protected cell company changes its status to an incorporated cell company–

(a) the Registrar shall, at the same time, issue in relation to each cell of the cell company a certificate of incorporation as if he had received an application for the creation of the cell under section 1049,

(b) the previous certificate of recognition issued to each cell of the cell company shall cease to have effect, and

(c) section 1056(12) shall apply in relation to each cell as if the cell had been transferred to the incorporated cell company under section 1056.

(7) Where, in accordance with subsection (2), an incorporated cell company changes its status to a protected cell company–

(a) the Registrar shall, at the same time, issue in relation to each cell of the cell company a certificate of recognition as if he had received an application for the creation of the cell under section 1049,

(b) the previous certificate of incorporation issued to each cell of the cell company shall cease to have effect, and

(c) section 1056(12) shall apply in relation to each cell as if the cell had been transferred to the protected cell company under section 1056.

(8) A body that is incorporated outside the Abu Dhabi Global Market may, with the approval of the Board by resolution, change its status in the manner set out in this section as part of the process of obtaining the issue of a certificate of continuance in accordance with Chapter 2 of Part 7 (continuance).

(9) A change of status of a company to which subsection (6) applies shall have effect on the issue of the certificate of continuance in accordance with section 106 (certificate of continuance within the Abu Dhabi Global Market).

Chapter 2

PROTECTED CELL COMPANIES

1060. Status of cells of protected cell companies

(1) A cell of a protected cell company is not a body corporate and has no legal identity separate from that of its cell company.

(2) However, a cell of a protected cell company may enter into an agreement with its cell company or with another cell of the company that shall be enforceable as if each cell of the company were a body corporate that had a legal identity separate from that of its cell company.

1061. Membership of protected cell company

(1) In a protected cell company–

(a) its non-cell members are members of the company but are not, by virtue of being such members, members of any cell of the company, and

(b) the cell members of a cell created by the company are members of that cell but are not, by virtue of being such members, members of the company or of any other cell of the company.

(2) In subsection (1)–

"cell member", in respect of a protected cell company, means–

(a) a registered holder of a share in a cell of the company, or

(b) a guarantee member of a cell of the company,

"non-cell member", in respect of a protected cell company, means–

(a) a registered holder of a share in the company that is not a share in a cell of the company, or

(b) a guarantor member of the company who is not a guarantor member of the company by virtue of being a guarantee member of a cell of the company.

1062. Additional duties of directors of protected cell companies

(1) A director of a protected cell company must exercise his powers and must discharge his duties in such a way as shall best ensure that–

(a) the cellular assets of the company are kept separate and are separately identifiable from the non-cellular assets of the company, and

(b) the cellular assets attributable to each cell of the company are kept separate and are separately identifiable from the cellular assets attributable to other cells of the company.

(2) A director of a protected cell company must ensure, when the company enters into an agreement in respect of a cell of the company–

(a) that the other party to the transaction knows or ought reasonably to know that the cell company is acting in respect of a particular cell, and

(b) that the minutes of any meeting of directors held with regard to the agreement clearly record the fact that the company was entering into the agreement in respect of the cell and that the obligation imposed by subsection (a) was or will be complied with.

(3) If a director fails to comply with the requirements of subsection (1) or subsection (2), a contravention of these Regulations is committed by him.

(4) A person who commits the contravention referred to in subsection (3) shall be liable to a fine of up to level 4.

(5) The duties of a director of a protected cell company under this section are in addition to those under Chapters 2 and 3 of Part 10 (general duties of directors, etc.) of these Regulations.

1063. Names of protected cell companies

(1) The name of a protected cell company must end with the words 'Protected Cell Company' or with the abbreviation 'PCC'.

(2) A company that is registered with a name that ends with the words 'Protected Cell Company' or the abbreviation 'PCC' may, in setting out or using its name for any purpose under these Regulations, do so in full or in the abbreviated form, as it determines.

(3) A protected cell company must assign a distinctive name to each of its cells that–

(a) distinguishes the cell from any other cell of the company, and

(b) ends with the words 'Protected Cell' or with the abbreviation 'PC'.

(4) Sections 52 and 53 (specifying how the name of a limited company must end) shall not apply to a cell of a protected cell company where the cell has the features of a limited company.

1064. Liability of protected cell company and its cells

(1) Except as provided by subsections (2) and (4), a protected cell company has no power–

(a) to meet any liability attributable to a particular cell of the company from the non-cellular assets of the company, or

(b) to meet any liability, whether attributable to a particular cell or not, from the cellular assets of another cell of the company.

(2) If–

(a) a protected cell company is permitted to do so under its articles, and

(b) the requirement set out in subsection (3) is satisfied,

the company may meet any liability attributable to a particular cell of the company from the company's non-cellular assets.

(3) The requirement mentioned in subsection (2)(b) is that prior to the protected cell company meeting any liability attributable to the particular cell from the company's non-cellular assets the directors who are to authorise the liability being met in such a way must make a statement that, having made full enquiry into the affairs and prospects of the company, they reasonably believe–

(a) that the company will be able to discharge its liabilities as they fall due, and

(b) that, having regard to–

(i) the prospects of the company,

(ii) the intentions of the directors with respect to the management of the company's business, and

(iii) the amount and character of the financial resources that will in the directors' view be available to the company,

the company will be able to–

A. continue to carry on business, and

B. discharge its liabilities as they fall due,

until the expiry of the period of 12 months immediately following the date on which the statement is signed.

(4) A protected cell company may meet any liability, whether attributable to a particular cell or not, from the cellular assets of another cell if–

(a) it is permitted to do so by the articles of that other cell, and

(b) the requirement set out in subsection (5) is satisfied.

(5) The requirement mentioned in subsection (4)(b) is that prior to the protected cell company meeting any liability from the cellular assets of that other cell the directors who are to authorise the liability being met in such a way must make a statement that, having made full enquiry into the affairs and prospects of that cell, they reasonably believe–

(a) that the cell will be able to discharge its liabilities as they fall due, and

(b) that, having regard to–

(i) the prospects of the cell,

(ii) the intentions of the directors with respect to the management of the cell's business, and

(iii) the amount and character of the financial resources that will in the directors' view be available to the cell,

the company will be able to–

A. continue to carry on business, and

B. discharge its liabilities as they fall due,

until the expiry of the period of 12 months immediately following the date on which the statement is signed.

(6) If a director makes a statement under subsection (3) or subsection (5) without having reasonable grounds for the opinion expressed in the statement, a contravention of these Regulations is committed by him.

(7) A person who commits the contravention referred to in subsection (6) shall be liable to a fine of up to level 4.

1065. Protection of cellular and non-cellular assets of protected cell companies

(1) Where a creditor of a protected cell company has a claim against the company in respect of a particular cell of the company (in this section called "the relevant cell") by virtue of a transaction to which section 1050(10) applies, only the cellular assets of the company held by it in respect of the relevant cell shall be available to the creditor.

(2) Where a creditor of a protected cell company has a claim against the company by virtue of a transaction to which section 1050(10) does not apply, the cellular assets of the company shall not be available to the creditor.

(3) Accordingly–

(a) a creditor of the company to whom subsection (1) applies only has the right to seek by proceedings or by any other means, whether in the Abu Dhabi Global Market or elsewhere, to make or attempt to make the cellular assets of the company held by it in respect of the relevant cell available for all or any part of the amount owed to the creditor, and

(b) a creditor of the company to whom subsection (2) applies has no right to seek by proceedings or by any other means, whether in the Abu Dhabi Global Market or elsewhere, to make or attempt to make the cellular assets of the company available for all or any part of the amount owed to the creditor.

(4) If a creditor of a protected cell company to whom subsection (1) applies succeeds, whether in the Abu Dhabi Global Market or elsewhere, in making available for all or any part of the amount owed to the creditor any assets of the company that are not its cellular assets held by it in respect of the relevant cell, the creditor shall be liable to pay to the company an amount equal to the benefit so obtained.

(5) If a creditor of a protected cell company to whom subsection (2) applies succeeds, whether in the Abu Dhabi Global Market or elsewhere, in making available for all or any part of the amount owed to the creditor any cellular assets of the company, the creditor shall be liable to pay to the company an amount equal to the benefit so obtained.

(6) Any amount recovered by a protected cell company in respect of a cell of the company by virtue of subsection (4) or subsection (5), and the right to claim that amount, shall form part of the cellular assets of the company held by it in respect of the cell.

(7) If a creditor of a protected cell company to whom subsection (1) applies succeeds, whether in the Abu Dhabi Global Market or elsewhere in seizing or attaching or otherwise levying execution against any assets of the company, that are not its cellular assets held by it in respect of the relevant cell, for all or any part of the amount owed to the creditor, the creditor shall hold those assets or their proceeds on trust for the company or, as the case may be, the cell of the company whose cellular assets were wrongfully seized or attached.

(8) If a creditor of a protected cell company to whom subsection (2) applies succeeds, whether in the Abu Dhabi Global Market or elsewhere in seizing or attaching or otherwise levying execution against any cellular assets of the company for all or any part of the amount owed to the creditor, the creditor shall hold those assets or their proceeds on trust for the cell of the company whose cellular assets were wrongfully seized or attached.

(9) Where subsection (7) or subsection (8) applies, the creditor must–

(a) keep the assets so held on trust separated and identifiable as trust property, and

(b) pay or return them on demand to the protected cell company.

(10) If a creditor fails to comply with the provisions of subsection (9), a contravention of these Regulations is committed by him.

(11) A person who commits the contravention referred to in subsection (10) shall be liable to a level 3 fine.

(12) Any amount recovered by a protected cell company by virtue of a trust mentioned in subsection (7) shall form part of the non-cellular assets of the company or, as the case may be, the cellular assets of the cell of the company whose cellular assets were wrongfully seized or attached.

(13) Any amount recovered by a protected cell company by virtue of a trust mentioned in subsection (8) shall form part of the cellular assets of the cell of the company whose cellular assets were wrongfully seized or attached.

(14) If a creditor becomes liable to pay an amount or to return assets to a protected cell company under subsection (4), subsection (5) or subsection (9)(b) and no amount or an insufficient amount is received, or no assets or less than all the assets are recovered, the company must cause or procure an auditor, acting as an expert and not as an arbitrator, to certify the loss suffered by the company and then, as the case may be–

(a) transfer to the company from the cellular assets of the relevant cell, if the liability was attributable to it, an amount sufficient to make good the loss suffered by the company's cellular or non-cellular assets, as the case may be, or

(b) transfer from its non-cellular assets, if the liability was attributable to them an amount sufficient to make good the loss suffered by its the cellular assets.

(15) Where an amount transferred by virtue of subsection (14)(a) was in respect of a loss suffered by the company's cellular assets, the amount transferred shall be transferred to the cell of the company whose cellular assets were wrongfully made available to a creditor or seized, attached or executed against.

(16) An amount transferred by virtue of subsection (14)(b) shall be transferred to the cell of the company whose cellular assets were wrongfully made available to a creditor or seized, attached or executed against.

(17) If a company fails to comply with subsection (14), (15) or (16), a contravention of these Regulations is committed by the company and every officer of it who is in default.

(18) A person who commits the contravention referred to in subsection (17) shall be liable to a level 3 fine.

(19) Subsections (4) to (16) do not apply to any payment made to a creditor by a protected cell company in accordance with section 1064(2) or section 1064(4).

1066. Effect of commencement of summary winding up of protected cell company

(1) Where a protected cell company is being wound up, section 195(1) (effect on business and status of company) of the Insolvency Regulations 2015 (effect on business and status of company) shall not apply in respect of any cell of the company.

(2) Where a cell of a protected cell company is being wound up, section 195(1) (effect on business and status of company) of the Insolvency Regulations 2015 shall not apply in respect of the company or any other cell of the company.

1067. Court may determine liability of protected cells companies

The Court, on the application of a protected cell company, may determine, in accordance with this Part, if a liability of the company is to be met by its non-cellular assets, by the cellular assets of a specific cell of the company or by a combination of those assets.

1068. Definitions relevant to this Part

In this Part:

"cell" means a cell of a cell company,

"cell company" means a company that is an incorporated cell company or a protected cell company,

"cellular assets", in respect of a protected cell company, means the assets of the company attributable solely to the cell or cells of the company,

"cellular liabilities", in respect of a protected cell company, means the liabilities of the company attributable solely to a cell or cells of the company,

"class of members", in respect of a protected cell company, includes–

(a) the members of a cell of the company, and

(b) any class of members of a cell of the company,

"incorporated cell company" means a company to which section 1047(1) applies,

"non-cellular assets", in respect of a protected cell company, means its assets that are not its cellular assets,

"non-cellular liabilities", in respect of a protected cell company, means its liabilities that are not its cellular liabilities.

"protected cell company" means a company to which section 1047(2) applies.

Part 36A

INVESTMENT COMPANIES

1068A. Application and interpretation, powers of the Board

(1) Without limiting the generality of subsection (2) below, the provisions of this Part are additional to any other legislation which may apply to the incorporation, operation, or winding up of an investment company.

(2) Except as far as otherwise provided by this Part, any provision of any Rules made by the Financial Services Regulator relating to Collective Investment Funds, or any other enactment, the provisions of these Regulations shall apply in their entirety to investment companies.

(3) The Board shall have authority from time to time to make, issue, amend and rescind such Rules as are necessary or appropriate in relation to the incorporation, operation or winding up of investment companies.

1068B. Formation of investment companies[39]

(1) A company is an investment company if its articles provide that it is an investment company, and it has been established for the purpose of collective investment and, if applicable, the management of the collective investment it holds.

(2) An investment company may be either a public or private company and may take the form of -

(a) a company limited by shares, or

(b) a cell company (or a cell of a cell company).

(3) An investment company cannot be a restricted scope company and a restricted scope company cannot be or become an investment company.

1068C. Names of investment companies

(1) The name of an investment company must include the words 'Close-Ended Investment Company' or the abbreviation 'CEIC', if it is a closed-ended investment company, or must include the words 'Open-Ended Investment Company' or the abbreviation 'OEIC' if it is an open-ended investment company.

(2) A company that is registered with a name that includes the words 'Close-Ended Investment Company' 'Open-Ended Investment Company' or the abbreviations 'CEIC'

[39] Amended 23 February 2023

or OEIC may, in setting out or using its name for any purpose under these Regulations, do so in full or in abbreviation form, as it determines.

1068D. Directors[40]

(1) Sections 144 and 145 of these Regulations shall not apply to investment companies.

(2) An investment company must have at least one director.

(3) The directors of an investment company must be fit and proper persons to act as such.

(4) If an investment company has only one director, that director must be a body corporate which is an Authorised Person and which holds the Financial Services Permission in the Abu Dhabi Global Market or in a jurisdiction acceptable to the Financial Services Regulator authorising it to carry on the Regulated Activity of Managing a Collective Investment Fund.

(5) If an investment company has two or more directors, they must ensure that, at all times, either:

(a) there is appointed to the investment company, an entity which holds the Financial Services Permission in the Abu Dhabi Global Market, or in a jurisdiction acceptable to the Financial Services Regulator, authorising it to carry on the Regulated Activity of Managing a Collective Investment Fund; or

(b) the investment company holds a Financial Services Permission authorising it to carry on the Regulated Activity of Managing a Collective Investment Fund.

1068E. Statutory pre-emption rights

(1) Sections 519 to 537 of these Regulations shall not apply to investment companies.

1068F. Issue and allotment of shares

(1) Sections 508 to 512 of these Regulations shall not apply to investment companies.

(2) The directors of an investment company may exercise any power of the investment company to-

(a) allot shares in the investment company; or

(b) grant rights to subscribe for or to convert any security into shares in the investment company,

to the extent permitted by the investment company's articles.

1068G. Share transfers

(1) The articles of an investment company may contain provision as to share transfers in respect of any matter for which provision is not made in these Regulations or any other enactment.

[40] Amended 23 February 2023

1068H. Redemptions

(1) Sections 623 to 628 of these Regulations shall not apply to investment companies.

(2) The directors of an investment company may exercise any power of the investment company to-

(a) issue shares that are redeemable at the option of the investment company or the shareholder; and

(b) determine the terms, conditions and manner of the redemption of such shares, to the extent permitted by the investment company's articles.

(3) Any redemption of shares of an investment company is also subject to the provisions of any Rules made by the Financial Services Regulator regarding Collective Investment Funds.

(4) No closed-ended investment company shall purchase any shares of any class of which it is the issuer except by a market purchase on a Recognised Investment Exchange or such other open market as the Financial Services Regulator may prescribe.

1068I. Definitions relevant to this Part

In this Part-

"body corporate" means any body corporate, including limited liability partnership and a body corporate constituted under the law of a country or territory outside of the Abu Dhabi Global Market,

"cell" has the meaning given in section 1068 of these Regulations,

"cell company" has the meaning given in section 1068 of these Regulations,

"incorporated cell company" means a company to which section 1047(1) of these Regulations applies,

"investment company" means an open or closed ended company established for the sole purpose of collective investment (and any such cell of such company) which is incorporated under these Regulations,

"limited liability partnership" means a partnership incorporated under the Limited Liability Partnership Regulations 2015 or under the law of a country, jurisdiction or territory outside the Abu Dhabi Global Market,

"market purchase" has the meaning given to it in section 632(4) of these Regulations,

"partnership" means any partnership, including a partnership constituted under the law of a country, jurisdiction or territory outside the Abu Dhabi Global Market, but not including a limited liability partnership, and

"protected cell company" means a company to which section 1047(2) of these Regulations applies.

Part 37

GENERAL SUPPLEMENTARY PROVISIONS

Resolutions

1069. Resolutions and subordinate legislation

(1) The Board shall have a general power to make rules amending any of the provisions of these Regulations by adding, altering or repealing provisions.

(2) The Board may make rules, containing such terms and conditions as the Board may in its discretion specify, delegating to the Registrar or the Financial Services Regulator any power that the Board has under any Part of these Regulations to make or issue any rules or other subordinate legislation.

(3) Any power or powers delegated by the Board under subsection (2) shall be exercised by the Registrar or the Financial Services Regulator by means of subordinate legislation made or issued by the Registrar or Financial Services Regulator (as the case may be).

(4) Any subordinate legislation made or issued by the Registrar or the Financial Services Regulator (as the case may be) under subsection (3) shall have the same force and effect as if it were and shall otherwise be treated under these Regulations as being rules made by the Board.

(5) Subordinate legislation under these Regulations may-

(a) make different provision for different cases or circumstances,

(b) include supplementary, incidental and consequential provision,

(c) make transitional provision and savings, and

(d) revoke or amend any rules or other subordinate legislation, provided that, unless the Board specifies otherwise in accordance with section 1069(2), only the Board may revoke or amend by rules any previous rules or any other subordinate legislation made or issued by the Board.

Consequential and transitional provisions

1070. Power to make consequential amendments and provide relief[41]

(1) The Board may make rules which make provision for the amendment, repeal or revocation of any provision of these Regulations or of any subordinate legislation made under these Regulations as it considers necessary or expedient in consequence of any provision made by or under these Regulations.

(2) Without prejudice to the generality of the power conferred by subsection (1), rules made under this section may−

[41] Amended on 9 July 2020

(a) make provision extending to other forms of organisation any provision made by or under these Regulations in relation to companies, or

(b) make provision corresponding to that made by or under these Regulations in relation to companies,

in either case with such adaptations or other modifications as appear to the Board (or, as the case may be, the other person referred to in section 1069(2)) to be necessary or expedient.

(3) The references in subsection (3) to provision made by these Regulations include provision conferring power to make provision by rules or other subordinate legislation.

(4) Amendments and repeals made under this section are additional, and without prejudice, to those made by or under any other provision of these Regulations.

(5) The Registrar may, on the application of a person who is subject to—

Part 6, section 74 (a company's registered office),

Part 7, Chapter 2, section 100 (bodies corporate which are eligible for continuance),

Part 7, Chapter 2, section 101 (restrictions on continuance),

Part 7, Chapter 2, section 102 (application to Registrar for continuance within the Abu Dhabi Global Market),

Part 14, Chapter 6, section 411 (requirements in connection with publication of non-registrable and other accounts),

Part 14, Chapter 8, section 415 (duty to file accounts and reports with the Registrar),

Part 14, Chapter 8, section 418 (filing obligations of companies subject to small companies regime),

Part 14, Chapter 8, section 420 (filing obligations of medium-sized companies),

Part 14, Chapter 8, section 421 (filing obligations of companies generally),

Part 23, section 778 (duty to deliver annual returns), or

Part 33, section 995 (form of company records),

direct, by notice in writing to a person, that any of those sections—

(a) are not to apply to that person, as specified in a direction notice from the Registrar; or

(b) are to apply to that person with modifications, specified in a direction notice from the Registrar.

(6) The Registrar may only exercise the direction power in subsection (5) where, in the reasonable discretion of the Registrar, public policy grounds exist.

(7) The Registrar may request from an applicant under subsection (5) any information it reasonably requires to exercise the Registrar's discretion in subsection (5) and (6).

(8) Notwithstanding the provisions of subsections (5), (6) and (7), the Registrar must not exercise the discretion provided for in subsection (5) in relation to any person who is subject to sections 100, 101 and 102 of these Regulations, unless such person provides the Registrar with satisfactory evidence acceptable to the Registrar, which is issued from the relevant governmental authority of the jurisdiction under which that person is incorporated and permits that person to submit an application to the Registrar for continuance within Abu Dhabi Global Market.

Part 38

FINAL PROVISIONS

1071. Short title, extent and commencement

(1) These Regulations may be cited as the Companies Regulations2020.

(2) These Regulations shall apply in the Abu Dhabi Global Market.

(3) These Regulations shall come into force on the date of their publication.

(4) The Companies Regulations 2015, Companies (Amendment) Regulations 2015, Companies (Amendment No. 2) Regulations 2016, Companies (Amendment) Regulations 2017, Companies (Amendment No. 4) Regulations 2018 and Companies (Amendment No. 1) Regulations 2020 are repealed.

SCHEDULE 1

CONNECTED PERSONS: REFERENCES TO AN INTEREST IN SHARES OR DEBENTURES

1. Introduction

(1) The provisions of this Schedule have effect for the interpretation of references in sections 276 and 277 (directors connected with or controlling a body corporate) to an interest in shares or debentures.

(2) The provisions are expressed in relation to shares but apply to debentures as they apply to shares.

2. General provisions

(1) A reference to an interest in shares includes any interest of any kind whatsoever in shares.

(2) Any restraints or restrictions to which the exercise of any right attached to the interest is or may be subject shall be disregarded.

(3) It is immaterial that the shares in which a person has an interest are not identifiable.

(4) Persons having a joint interest in shares are deemed each of them to have that interest.

3. Rights to acquire shares

(1) A person is taken to have an interest in shares if he enters into a contract to acquire them.

(2) A person is taken to have an interest in shares if-

(a) he has a right to call for delivery of the shares to himself or to his order, or

(b) he has a right to acquire an interest in shares or is under an obligation to take an interest in shares,

whether the right or obligation is conditional or absolute.

(3) Rights or obligations to subscribe for shares are not to be taken for the purposes of sub-paragraph (2) to be rights to acquire or obligations to take an interest in shares.

(4) A person ceases to have an interest in shares by virtue of this paragraph-

(a) on the shares being delivered to another person at his order-

(i) in fulfilment of a contract for their acquisition by him, or

(ii) in satisfaction of a right of his to call for their delivery;

(b) on a failure to deliver the shares in accordance with the terms of such a contract or on which such a right falls to be satisfied;

(c) on the lapse of his right to call for the delivery of shares.

4. Right to exercise or control exercise of rights

(1) A person is taken to have an interest in shares if, not being the registered holder, he is entitled-

(a) to exercise any right conferred by the holding of the shares, or

(b) to control the exercise of any such right.

(2) For this purpose a person is taken to be entitled to exercise or control the exercise of a right conferred by the holding of shares if he-

(a) has a right (whether subject to conditions or not) the exercise of which would make him so entitled, or

(b) is under an obligation (whether or not so subject) the fulfilment of which would make him so entitled.

(3) A person is not by virtue of this paragraph taken to be interested in shares by reason only that-

(a) he has been appointed a proxy to exercise any of the rights attached to the shares, or

(b) he has been appointed by a body corporate to act as its representative at any meeting of a company or of any class of its members.

5. Bodies corporate

(1) A person is taken to be interested in shares if a body corporate is interested in them and-

(a) the body corporate or its directors are accustomed to act in accordance with his directions or instructions, or

(b) he is entitled to exercise or control the exercise of more than one-half of the voting power at general meetings of the body corporate.

(2) For the purposes of sub-paragraph (1)(b) where-

(a) a person is entitled to exercise or control the exercise of more than one-half of the voting power at general meetings of a body corporate, and

(b) that body corporate is entitled to exercise or control the exercise of any of the voting power at general meetings of another body corporate,

(c) the voting power mentioned in paragraph (b) above is taken to be exercisable by that person.

6. Trusts

(1) Where an interest in shares is comprised in property held on trust, every beneficiary of the trust is taken to have an interest in shares, subject as follows.

(2) So long as a person is entitled to receive, during the lifetime of himself or another, income from trust property comprising shares, an interest in the shares in reversion or remainder shall be disregarded.

(3) A person is treated as not interested in shares if and so long as he holds them as a bare trustee or custodian trustee under the laws and regulatiaons applicable in the Abu Dhabi Global Market.

SCHEDULE 2

MATTERS FOR DETERMINING UNFITNESS OF DIRECTORS

PART 1

MATTERS APPLICABLE IN ALL CASES

(1) Any misfeasance or breach of any fiduciary or other duty by the director in relation to the company, including in particular any breach by the director of a duty under Chapter 2 of Part 10 of the Regulations (general duties of directors) owed to the company.

(2) Any misapplication or retention by the director of, or any conduct by the director giving rise to an obligation to account for, any money or other property of the company.

(3) The extent of the director's responsibility for any failure by the company to comply with any of the following provisions of the Regulations-

(a) section 118 (register of members),

(b) section 119 (register to be kept available for inspection),

(c) section 153 (register of directors),

(d) section 156 (register of directors' residential addresses),

(e) section 157 (duty to notify Registrar of changes: directors),

(f) section 292 (register of secretaries),

(g) section 293 (duty to notify Registrar of changes: secretaries),

(h) section 375 (duty to keep accounting records),

(i) section 377 (where and for how long accounting records to be kept),

(j) section 770 (Treatment of development costs), and

(k) section 798 (inspection of charge instruments).

(4) The extent of the director's responsibility for any failure by the directors of the company to comply with the following provisions of the Regulations-

(a) section 383 or 389 (duty to prepare annual accounts),

(b) section 399 or 404 (approval and signature of accounts),

(c) section 409 (name of signatory to be stated in published copy of accounts).

PART 2

MATTERS APPLICABLE IN INSOLVENCY

(1) The extent of the director's responsibility for the causes of the company becoming insolvent.

(2) The extent of the director's responsibility for any failure by the company to supply any goods or services which have been paid for (in whole or in part).

(3) The extent of the director's responsibility for the company entering into any transaction or giving any preference, being a transaction or preference falling within under Part 4 (protection of assets in liquidation and administration) of the Insolvency Regulations 2015, or

(4) The extent of the director's responsibility for any failure by the directors of the company to comply with section s186(1)(a) (meetings of members and creditors) of the Insolvency Regulations 2015.

(5) Any failure by the director to comply with any obligation imposed on him by or under any of the following provisions of the Insolvency Regulations 2015-

(a) section 51 (statement company's affairs) (administration),

(b) section 165 (statement company's affairs) (administrative receiver),

(c) section 186(2) (meetings of members and creditors),

(d) section 231 (statement of affairs) (winding up by the Court),

(e) section 254 (getting in the company's property),

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officer, in relation to a body corporate	section 1028(1)
officer in default	section 990(3)
official seal, of Registrar	section 937
ordinary resolution	section 298
ordinary shares (in Chapter 3 of Part 16)	section 519(1)
other relevant transactions or arrangements (in Chapter 4 of Part 10)	section 199
paid up	section 540(2)
parent company	section 1028(1)
parent undertaking	section 1018 (and see Schedule 7)

payment for loss of office (in Chapter 4 of Part 10)	section 203
pension scheme (in Chapter 1 of Part 17)	section 615
period for appointing auditors, in relation to a private company	section 457(2)
period for filing, in relation to accounts and reports for a financial year	section 416
permissible capital payment (in Chapter 5 of Part 17)	section 650
prescribed	section 1025
private company	section 3
profit and loss account (in Part 14)	section 446(1) and (2)
profits and losses (in Part 22)	section 777(2)
profits available for distribution (for the purposes of Part 22)	section 761(2)
property (in Part 26)	section 856
protected information (in Chapter 8 of Part 10)	section 226
provision for entrenchment, in relation to a company's articles	section 20
public company	section 3
publication, in relation to accounts and reports (in sections 409to 411)	section 412
qualified, in relation to an auditor's report etc (in Part 15)	section 502
qualifying third party indemnity provision (in Chapter 7 of Part 10)	section 221
qualifying pension scheme indemnity provision (in Chapter 7 of Part 10)	section 222
quasi-loan (in Chapter 4 of Part 10)	section 188
realised profits and losses (in Part 22)	section 777(4)

receiver or manager (and certain related references)	section 1025
redeemable shares	section 623(1)
the register	section 954
register of directors	section 153
register of directors' residential addresses	section 156
register of members	section 120
register of secretaries	section 292
registered number, of a company	section 941
registered office, of a company	section 74
registrable accounts	section 410(3)
Registrar and Registrar of companies	section 935
Registrar's register of company names	section 974
Registrar's rules	section 989
relevant accounts (in Part 17)	section 652(6)
requirements for proper delivery (in Part 31)	section 946 (and see section 947)
return period (in Part 23)	section 779(4)
securities (and related expressions)	
- in Chapter 1 of Part 19	section 693(5)
- in Chapter 2 of Part 20	section 717
senior auditor	section 475
sent or supplied, in relation to documents or information (in the company communications provisions)	section 1008 (2) and (3)
service address	section 1001
service contract, of a director (in Part 10)	section 214

shadow director	section 147
share	
- generally in these Regulations	section 503 (and see section 1017(2))
- in Part 21	section 724
- in section 1018 and Schedule 7	section 1018(7)
share capital, company having a	section 504
share exchange ratio	
- in Chapter 2 of Part 26	section 815(2)(b)(i)
- in Chapter 3 of Part 26	section 831(2)(b)
small companies exemption (in relation to directors' report)	section 401
small companies regime (for accounts)	section 368
solvency statement (in sections 582 to 585)	section 584
special notice, in relation to a resolution	section 329
special resolution	section 299
subsidiary	section 1015 (and see section 1016 and Schedule 6)
subsidiary undertaking	section 1018 (and see Schedule 7)
trading certificate	section 699
transfer, in relation to a non-cash asset	section 1019(2)
treasury shares	section 666(4)
turnover	
- in Part 14	section 446(1)
- in Part 15	section 500
uncalled share capital	section 506
undistributable reserves	section 762(4)

undertaking	section 1017(1)
unique identifier	section 956
unlimited company	section 2
voting rights	
- in section 1015 and Schedule 6	paragraph 2 of Schedule 6
- in section 1018 and Schedule 7	paragraph 2 of Schedule 7
website, communication by a company by means of	Part 4 of Schedule 5
wholly-owned subsidiary	section 1015(3) (and see section 1016 and Schedule 6)
working day, in relation to a company	section 1028(1)
written resolution	section 305

SCHEDULE 4

DOCUMENTS AND INFORMATION SENT OR SUPPLIED TO A COMPANY

PART 1

INTRODUCTION

1. Application of this Schedule

(1) This Schedule applies to documents or information sent or supplied to a company.

(2) It does not apply to documents or information sent or supplied by another company (see section 1003 and Schedule 5).

PART 2

COMMUNICATIONS IN HARD COPY FORM

1. Introduction

A document or information is validly sent or supplied to a company if it is sent or supplied in hard copy form in accordance with this Part of this Schedule.

2. Method of communication in hard copy form

(1) A document or information in hard copy form may be sent or supplied by hand or by post to an address (in accordance with paragraph 4).

(2) For the purposes of this Schedule, a person sends a document or information by post if he posts a prepaid envelope containing the document or information.

3. Address for communications in hard copy form

(1) A document or information in hard copy form may be sent or supplied-

(a) to an address specified by the company for the purpose,

(b) to the company's registered office, or

(c) to an address to which any provision of these Regulations authorises the document or information to be sent or supplied.

PART 3

COMMUNICATIONS IN ELECTRONIC FORM

5. Introduction

A document or information is validly sent or supplied to a company if it is sent or supplied in electronic form in accordance with this Part of this Schedule.

6. Agreement to communications in electronic form

A document or information may only be sent or supplied to a company in electronic form if-

(a) the company has agreed (generally or specifically) that the document or information may be sent or supplied in that form (and has not revoked that agreement), or

(b) the company is deemed to have so agreed by a provision in these Regulations.

7. Address for communications in electronic form

(1) Where the document or information is sent or supplied by electronic means, it may only be sent or supplied to an address-

(a) specified for the purpose by the company (generally or specifically), or

(b) deemed by a provision in these Regulations to have been so specified.

(2) Where the document or information is sent or supplied in electronic form by hand or by post, it must be sent or supplied to an address to which it could be validly sent if it were in hard copy form.

PART 4

OTHER AGREED FORMS OF COMMUNICATION

8. A document or information that is sent or supplied to a company otherwise than in hard copy form or electronic form is validly sent or supplied if it is sent or supplied in a form or manner that has been agreed by the company.

SCHEDULE 5

COMMUNICATIONS BY A COMPANY

PART 1

INTRODUCTION

1. Application of this Schedule

This Schedule applies to documents or information sent or supplied by a company.

PART 2

COMMUNICATIONS IN HARD COPY FORM

2. Introduction

A document or information is validly sent or supplied by a company if it is sent or supplied in hard copy form in accordance with this Part of this Schedule.

3. Method of communication in hard copy form

(1) A document or information in hard copy form must be-

(a) handed to the intended recipient, or

(b) sent or supplied by hand or by post to an address (in accordance with paragraph 4).

(2) For the purposes of this Schedule, a person sends a document or information by post if he posts a prepaid envelope containing the document or information.

4. Address for communications in hard copy form

(1) A document or information in hard copy form may be sent or supplied by the company-

(a) to an address specified for the purpose by the intended recipient;

(b) to a company at its registered office;

(c) to a person in his capacity as a member of the company at his address as shown in the company's register of members;

(d) to a person in his capacity as a director of the company at his address as shown in the company's register of directors;

(e) to an address to which any provision of these Regulations authorises the document or information to be sent or supplied.

(2) Where the company is unable to obtain an address falling within sub-paragraph (1), the document or information may be sent or supplied to the intended recipient's last address known to the company.

PART 3

COMMUNICATIONS IN ELECTRONIC FORM

5. Introduction

A document or information is validly sent or supplied by a company if it is sent in electronic form in accordance with this Part of this Schedule.

6. Agreement to communications in electronic form

A document or information may only be sent or supplied by a company in electronic form-

(a) to a person who has agreed (generally or specifically) that the document or information may be sent or supplied in that form (and has not revoked that agreement), or

(b) to a company that is deemed to have so agreed by a provision in these Regulations.

7. Address for communications in electronic form

(1) Where the document or information is sent or supplied by electronic means, it may only be sent or supplied to an address-

(a) specified for the purpose by the intended recipient (generally or specifically), or

(b) where the intended recipient is a company, deemed by a provision of these Regulations to have been so specified.

(2) Where the document or information is sent or supplied in electronic form by hand or by post, it must be-

(a) handed to the intended recipient, or

(b) sent or supplied to an address to which it could be validly sent if it were in hard copy form.

PART 4

COMMUNICATIONS BY MEANS OF A WEBSITE

8. Use of website

A document or information is validly sent or supplied by a company if it is made available on a website in accordance with this Part of this Schedule.

9. Agreement to use of website

A document or information may only be sent or supplied by the company to a person by being made available on a website if the person-

(a) has agreed (generally or specifically) that the document or information may be sent or supplied to him in that manner, or

(b) is taken to have so agreed under-

(i) paragraph 10 (members of the company etc), or

(ii) paragraph 11 (debenture holders),

and has not revoked that agreement.

10. Deemed agreement of members of company etc to use of website

(1) This paragraph applies to a document or information to be sent or supplied to a person-

(a) as a member of the company, or

(b) as a person nominated by a member in accordance with the company's articles to enjoy or exercise all or any specified rights of the member in relation to the company.

(2) To the extent that-

(a) the members of the company have resolved that the company may send or supply documents or information to members by making them available on a website, or

(b) the company's articles contain provision to that effect,

a person in relation to whom the following conditions are met is taken to have agreed that the company may send or supply documents or information to him in that manner.

(3) The conditions are that-

(a) the person has been asked individually by the company to agree that the company may send or supply documents or information generally, or the documents or information in question, to him by means of a website, and

(b) the company has not received a response within the period of one month beginning with the date on which the company's request was sent.

(4) A person is not taken to have so agreed if the company's request-

(a) did not state clearly what the effect of a failure to respond would be, or

(b) was sent less than twelve months after a previous request made to him for the purposes of this paragraph in respect of the same or a similar class of documents or information.

(5) Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to a resolution under this paragraph.

11. Deemed agreement of debenture holders to use of website

(1) This paragraph applies to a document or information to be sent or supplied to a person as holder of a company's debentures.

(2) To the extent that-

(a) the relevant debenture holders have duly resolved that the company may send or supply documents or information to them by making them available on a website, or

(b) the instrument creating the debenture in question contains provision to that effect,

a debenture holder in relation to whom the following conditions are met is taken to have agreed that the company may send or supply documents or information to him in that manner.

(3) The conditions are that-

(a) the debenture holder has been asked individually by the company to agree that the company may send or supply documents or information generally, or the documents or information in question, to him by means of a website, and

(b) the company has not received a response within the period of one month beginning with the date on which the company's request was sent.

(4) A person is not taken to have so agreed if the company's request-

(a) did not state clearly what the effect of a failure to respond would be, or

(b) was sent less than twelve months after a previous request made to him for the purposes of this paragraph in respect of the same or a similar class of documents or information.

(5) For the purposes of this paragraph-

(a) the relevant debenture holders are the holders of debentures of the company ranking pari passu for all purposes with the intended recipient, and

(b) a resolution of the relevant debenture holders is duly passed if they agree in accordance with the provisions of the instruments creating the debentures.

12. Availability of document or information

(1) A document or information authorised or required to be sent or supplied by means of a website must be made available in a form, and by a means, that the company reasonably considers will enable the recipient-

(a) to read it, and

(b) to retain a copy of it.

(2) For this purpose a document or information can be read only if-

(a) it can be read with the naked eye, or

(b) to the extent that it consists of images (for example photographs, pictures, maps, plans or drawings), it can be seen with the naked eye.

13. Notification of availability

(1) The company must notify the intended recipient of-

(a) the presence of the document or information on the website,

(b) the address of the website,

(c) the place on the website where it may be accessed, and

(d) how to access the document or information.

(2) The document or information is taken to be sent-

(a) on the date on which the notification required by this paragraph is sent, or

(b) if later, the date on which the document or information first appears on the website after that notification is sent.

14. Period of availability on website

(1) The company must make the document or information available on the website throughout-

(a) the period specified by any applicable provision of these Regulations, or

(b) if no such period is specified, the period of one month beginning with the date on which the notification required under paragraph 13 is sent to the person in question.

(2) For the purposes of this paragraph, a failure to make a document or information available on a website throughout the period mentioned in sub-paragraph (1) shall be disregarded if-

(a) it is made available on the website for part of that period, and

(b) the failure to make it available throughout that period is wholly attributable to circumstances that it would not be reasonable to have expected the company to prevent or avoid.

15. Other forms of communication

A document or information that is sent or supplied otherwise than in hard copy or electronic form or by means of a website is validly sent or supplied if it is sent or supplied in a form or manner that has been agreed by the intended recipient.

PART 5

SUPPLEMENTARY PROVISIONS

16. Joint holders of shares or debentures

(1) This paragraph applies in relation to documents or information to be sent or supplied to joint holders of shares or debentures of a company.

(2) Anything to be agreed or specified by the holder must be agreed or specified by all the joint holders.

(3) Anything authorised or required to be sent or supplied to the holder may be sent or supplied either-

(a) to each of the joint holders, or

(b) to the holder whose name appears first in the register of members or the relevant register of debenture holders.

(4) This paragraph has effect subject to anything in the company's articles.

17. Death or bankruptcy of holder of shares

(1) This paragraph has effect in the case of the death or bankruptcy of a holder of a company's shares.

(2) Documents or information required or authorised to be sent or supplied to the member may be sent or supplied to the persons claiming to be entitled to the shares in consequence of the death or bankruptcy-

(a) by name, or

(b) by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description,

at the address in the Abu Dhabi Global Market supplied for the purpose by those so claiming.

(3) Until such an address has been so supplied, a document or information may be sent or supplied in any manner in which it might have been sent or supplied if the death or bankruptcy had not occurred.

(4) This paragraph has effect subject to anything in the company's articles.

SCHEDULE 6

MEANING OF "SUBSIDIARY" ETC: SUPPLEMENTARY PROVISIONS

1. Introduction

The provisions of this Schedule explain expressions used in section 1015 (meaning of "subsidiary" etc) and otherwise supplement that section.

2. Voting rights in a company

In section 1015(1)(a) and (c)the references to the voting rights in a company are to the rights conferred on shareholders in respect of their shares or, in the case of a company not having a share capital, on members, to vote at general meetings of the company on all, or substantially all, matters.

3. Right to appoint or remove a majority of the directors

(1) In section 1015(1)(b) the reference to the right to appoint or remove a majority of the board of directors is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all, or substantially all, matters.

(2) A company shall be treated as having the right to appoint to a directorship if-

(a) a person's appointment to it follows necessarily from his appointment as director of the company, or

(b) the directorship is held by the company itself.

(3) A right to appoint or remove which is exercisable only with the consent or concurrence of another person shall be left out of account unless no other person has a right to appoint or, as the case may be, remove in relation to that directorship.

4. Rights exercisable only in certain circumstances or temporarily incapable of exercise

(1) Rights which are exercisable only in certain circumstances shall be taken into account only-

(a) when the circumstances have arisen, and for so long as they continue to obtain, or

(b) when the circumstances are within the control of the person having the rights.

(2) Rights which are normally exercisable but are temporarily incapable of exercise shall continue to be taken into account.

5. Rights held by one person on behalf of another

(1) Rights held by a person in a fiduciary capacity shall be treated as not held by him.

(2) Rights held by a person as nominee for another shall be treated as held by the other.

(3) Rights shall be regarded as held as nominee for another if they are exercisable only on his instructions or with his consent or concurrence.

6. Rights attached to shares held by way of security

(1) Rights attached to shares held by way of security shall be treated as held by the person providing the security-

(a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with his instructions, and

(b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in his interests.

7. Rights attributed to holding company

(1) Rights shall be treated as held by a holding company if they are held by any of its subsidiary companies.

(2) Nothing in paragraph 5(2), 5(3) or 6 shall be construed as requiring rights held by a holding company to be treated as held by any of its subsidiaries.

(3) For the purposes of paragraph 6 rights shall be treated as being exercisable in accordance with the instructions or in the interests of a company if they are exercisable in accordance with the instructions of or, as the case may be, in the interests of-

(a) any subsidiary or holding company of that company, or

(b) any subsidiary of a holding company of that company.

8. Disregard of certain rights

The voting rights in a company shall be reduced by any rights held by the company itself.

9. Supplementary

References in any provision of paragraphs 5 to 8 to rights held by a person include rights falling to be treated as held by him by virtue of any other provision of those paragraphs but not rights which by virtue of any such provision are to be treated as not held by him.

SCHEDULE 7

PARENT AND SUBSIDIARY UNDERTAKINGS: SUPPLEMENTARY PROVISIONS

1. Introduction

The provisions of this Schedule explain expressions used in section 1018 (parent and subsidiary undertakings) and otherwise supplement that section.

2. Voting rights in an undertaking

(1) In section 1018(2)(a) and (d) the references to the voting rights in an undertaking are to the rights conferred on shareholders in respect of their shares or, in the case of an undertaking not having a share capital, on members, to vote at general meetings of the undertaking on all, or substantially all, matters.

(2) In relation to an undertaking which does not have general meetings at which matters are decided by the exercise of voting rights the references to holding a majority of the voting rights in the undertaking shall be construed as references to having the right under the constitution of the undertaking to direct the overall policy of the undertaking or to alter the terms of its constitution.

3. Right to appoint or remove a majority of the directors

(1) In section 1018(2)(b) the reference to the right to appoint or remove a majority of the board of directors is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all, or substantially all, matters.

(2) An undertaking shall be treated as having the right to appoint to a directorship if-

(a) a person's appointment to it follows necessarily from his appointment as director of the undertaking, or

(b) the directorship is held by the undertaking itself.

(3) A right to appoint or remove which is exercisable only with the consent or concurrence of another person shall be left out of account unless no other person has a right to appoint or, as the case may be, remove in relation to that directorship.

4. Right to exercise dominant influence

(1) For the purposes of section 1018(2)(c) an undertaking shall not be regarded as having the right to exercise a dominant influence over another undertaking unless it has a right to give directions with respect to the operating and financial policies of that other undertaking which its directors are obliged to comply with whether or not they are for the benefit of that other undertaking.

(2) A "control contract" means a contract in writing conferring such a right which-

(a) is of a kind authorised by the articles of the undertaking in relation to which the right is exercisable, and

(b) is permitted by the law under which that undertaking is established.

(3) This paragraph shall not be read as affecting the construction of section 1018(4)(a).

5. Rights exercisable only in certain circumstances or temporarily incapable of exercise

(1) Rights which are exercisable only in certain circumstances shall be taken into account only-

(a) when the circumstances have arisen, and for so long as they continue to obtain, or

(b) when the circumstances are within the control of the person having the rights.

(2) Rights which are normally exercisable but are temporarily incapable of exercise shall continue to be taken into account.

6. Rights held by one person on behalf of another

(1) Rights held by a person in a fiduciary capacity shall be treated as not held by him.

(2) Rights held by a person as nominee for another shall be treated as held by the other.

(3) Rights shall be regarded as held as nominee for another if they are exercisable only on his instructions or with his consent or concurrence.

7. Rights attached to shares held by way of security

(1) Rights attached to shares held by way of security shall be treated as held by the person providing the security-

(a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with his instructions, and

(b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in his interests.

8. Rights attributed to parent undertaking

(1) Rights shall be treated as held by a parent undertaking if they are held by any of its subsidiary undertakings.

(2) Nothing in paragraph 6(2), 6(3) or 7 shall be construed as requiring rights held by a parent undertaking to be treated as held by any of its subsidiary undertakings.

(3) For the purposes of paragraph 7 rights shall be treated as being exercisable in accordance with the instructions or in the interests of an undertaking if they are exercisable in accordance with the instructions of or, as the case may be, in the interests of any group undertaking.

9. Disregard of certain rights

The voting rights in an undertaking shall be reduced by any rights held by the undertaking itself.

10. Supplementary

References in any provision of paragraphs 6 to 9 to rights held by a person include rights falling to be treated as held by him by virtue of any other provision of those paragraphs but not rights which by virtue of any such provision are to be treated as not held by him.