

Chapter 3

Auditors



3.8 Rights and duties of auditors

Purpose

3.8.1 G The auditor of a *firm* has various rights and duties to obtain information from the *firm* and both to enable and to require him to pass information to the *appropriate regulator* in specified circumstances. This section imposes or gives *guidance* on those rights and duties.

Cooperation with the appropriate regulator

3.8.2 R An auditor of a *firm* must cooperate with the *appropriate regulator* in the discharge of its functions under the *Act*.

3.8.3 G The *appropriate regulator* may ask the auditor to attend meetings and to supply it with information about the *firm*. In complying with ■ SUP 3.8.2 R, the auditor should attend such meetings as the *appropriate regulator* requests and supply it with any information the *appropriate regulator* may reasonably request about the *firm* to enable the *appropriate regulator* to discharge its functions under the *Act*.

3.8.4 R An auditor of a *firm* must give any *skilled person* appointed by the *firm* or appointed by the *appropriate regulator* all assistance that person reasonably requires (see ■ SUP 5 and section 166(5) of the *Act* (Reports by skilled persons)).

Auditor's independence

3.8.5 R An auditor of a *firm* must be independent of the *firm* in performing his duties in respect of that *firm*.

3.8.6 R An auditor of a *firm* must take reasonable steps to satisfy himself that he is free from any conflict of interest in respect of that *firm* from which bias may reasonably be inferred. He must take appropriate action where this is not the case.

3.8.7 G ■ SUP 3.5.4 G explains that an auditor whose appointment does not breach the ethical guidance in current issue from the auditor's recognised supervisory body will be regarded as independent by the *appropriate regulator*.

Auditors' rights to information

3.8.8

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■ SUP 3.6.1 R requires a *firm* to cooperate with its auditor. ■ SUP 3.6.3 G refers to the rights to information which an auditor is granted by the Act.
 ■ SUP 3.6.4 G refers to similar rights granted by the Companies Act 1985 or where applicable, the Companies Act 2006, the Building Societies Act 1986 and the Friendly Societies Act 1992.

Communication between the appropriate regulator, the firm and the auditor

3.8.9

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Within the legal constraints that apply, the *appropriate regulator* may pass on to an auditor any information which it considers relevant to his function. An auditor is bound by the confidentiality provisions set out in Part XXIII of the Act (Public record, disclosure of information and cooperation) in respect of confidential information he receives from the *appropriate regulator*. An auditor may not pass on such confidential information without lawful authority, for example if an exception applies under the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (SI 2001/2188) or with the consent of the *person* from whom that information was received and (if different) to whom the information relates.

Auditors' statutory duty to report

3.8.10

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(1) Auditors are subject to regulations made by the Treasury under sections 342(5) and 343(5) of the Act (Information given by auditor or actuary to a regulator). Section 343 and the regulations also apply to an auditor of an *authorised person* in his capacity as an auditor of a *person* who has *close links* with the *authorised person*.

(2) These regulations oblige auditors to report certain matters to the *appropriate regulator*. Sections 342(3) and 343(3) of the Act provide that an auditor does not contravene any duty by giving information or expressing an opinion to the *appropriate regulator*, if he is acting in good faith and he reasonably believes that the information or opinion is relevant to any functions of the *appropriate regulator*. These provisions continue to have effect after the end of the auditor's term of appointment.

In relation to Lloyd's, an effect of the *insurance market direction* set out at ■ SUP 3.1.13 D is that sections 342(5) and 343(5) of the Act (Information given by an auditor or actuary to a regulator) apply also to auditors appointed to report on the *insurance business* of *members*.

Termination of term of office, disqualification

3.8.11

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An auditor must notify the *appropriate regulator* without delay if he:

- (1) is removed from office by a *firm*; or
- (2) resigns before his term of office expires; or
- (3) is not re-appointed by a *firm*.

3.8.12	R	<p>If an auditor ceases to be, or is formally notified that he will cease to be, the auditor of a <i>firm</i>, he must notify the <i>appropriate regulator</i> without delay:</p> <p>(1) of any matter connected with his so ceasing which he thinks ought to be drawn to the <i>appropriate regulator's</i> attention; or</p> <p>(2) that there is no such matter.</p>
3.8.13	R	[deleted]
3.8.14	G	[deleted]