

USE OF THE DESCRIPTION 'CHARTERED ACCOUNTANT'

The regulations that govern use of the description 'chartered accountants' have changed with effect from 1 March 2010.

Why have the regulations changed?

We changed the regulations in 2009 to deal with firms adopting group structures; perhaps a holding company that may or may not trade with service-specific subsidiaries, for example, subsidiaries for accounting, audit and tax.

Comments received about that change suggested that further changes were desirable. The regulations have strict criteria that are met or not, but no allowance is made for the shades of grey that happen in real life. For example, the regulations require 50% or more of the directors to be members, with no account of directors' voting rights, or that shareholders could replace a director.

What changes did we make?

Because this is all about shades of grey, drafting a 'rules-based' regulation was not the answer. Instead the Professional Standards Board (PSB) has an absolute discretionary power to allow firms to use the description 'chartered accountants' who do not meet the specific criteria (which are still part of the regulations). The main changes to the regulations are set out in appendix 1.

Who will be able to use the description now?

As this is a discretionary power, we cannot describe here who may be able to take advantage of the new arrangements. Included in the regulations are some pointers (see appendix 2) as to what the PSB will consider in reaching a decision. This does not mean that all the points listed need to be met, or that firms cannot put other matters forward in support of their application.

Other matters

To apply, no special form is needed; you simply need to write to the ICAEW at Milton Keynes explaining how your firm meets some or all of the matters listed in the guidance. The PSB will consider the request and may ask for additional information. If the right to use the description is granted, the PSB may grant this with conditions, for instance, you must inform the PSB of changes in the information provided. It is also likely that the PSB will want the firm to come within the practice assurance arrangements if this is not the case already, using the [application forms](#) that are used for money laundering supervision via practice assurance

A firm that is allowed to use the description chartered accountants will be liable under the disciplinary bye-laws just as a firm that uses the description as of 'right'.

Regulation 6 still requires any principal who is not a chartered accountant to be an affiliate. However, a principal that is a firm registered under the audit regulations or holds a licence under the Designated Professional Body arrangements does not need affiliate status.

The revised regulations are in section 6.3 of the [Members' Handbook](#).

If you're not sure whether your firm is entitled to use the description 'chartered accountants', please call +44 (0)1908 248 025.

Appendix 1

Extracts from the use of the description regulations

3B In the case of a firm which does not satisfy the criteria set out in regulation 3:

(a) it shall be allowed to describe itself as 'Chartered Accountants' notwithstanding the provisions of these regulations should the Professional Standards Board, in its absolute discretion, so decide;

(b) such allowance may be granted on such terms and conditions as the Professional Standards Board considers appropriate;

(c) if a firm is allowed to describe itself as 'Chartered Accountants' by the operation of this regulation the Professional Standards Board may revoke for cause the allowance previously granted;

(d) the Professional Standards Board may give guidance as to the circumstances when it is likely to grant or refuse a request under this regulation; and

(e) the Professional Standards Board may delegate its discretion under this regulation.

6 A member firm which engages in public practice is entitled to describe itself as 'Chartered Accountants' provided that any partner, member (in the case of a limited liability partnership) or director (in the case of a company) who is not a chartered accountant or a member firm must:

(a) holds affiliate status from the Institute under its *Designated Professional Handbook Regulations, Audit Regulations, Insolvency Licensing Regulations* or these Regulations;

(b) hold affiliate status from the Institute under these Regulations;

(c) be registered for audit work by the Institute; or

(d) be licensed under the designated professional body arrangements of the Institute.

11 The Disciplinary Bye-laws shall apply to a complaint against a general affiliate or a firm allowed to use the description 'Chartered Accountants' under regulation 3B as they apply to complaints against members or member firms and without prejudice to the generality of the foregoing the term 'defendant' shall be read and construed as including a general affiliate or such a firm.

15 The Investigation Committee shall be responsible for determining applications for general affiliate status. Such status may be granted if it is satisfied that:

[(i) – (iv) not shown]

(v) the applicant (except in the case of an applicant who is not an individual) is able to demonstrate appropriate and relevant experience of accountancy or of a related discipline or has one or more of the following qualifications:

(a) Membership of the ACCA;

(b) Membership of the CIMA;

(c) Membership of the CIPFA;

(d) Membership of the CIOt;

(e) Membership of the IMC; or

(f) Membership of the AAT.

Appendix 2

Guidance about the use of the discretionary power

- 1 The use of the description regulations set out the circumstances in which a firm can use the description 'chartered accountants'. They are set out as criteria, which are either met or not in specific cases, by reference to a definition of 'member firm' in regulation 3. However, the Institute recognises that the circumstances of a particular firm may not fit neatly into such defined criteria. Therefore regulation 3B contains a discretionary power under which a firm may be permitted to use the description 'chartered accountants'. This annex sets out how that discretionary power may be used.
- 2 In the following text, principal means a partner in a partnership, member of a limited liability partnership or director of a corporate practice. Chartered accountant has the meaning set out in regulation 2 and member means a member of the Institute.
- 3 If a firm that does not fit within the criteria set out in regulation 3 wishes to use the description it should apply in writing for permission under these arrangements. The application should be sent to the Institute at the address in regulation 24. The application should set out details of how the firm is owned and controlled.
- 4 Such application will be considered by the Institute which may request additional information. The decision to grant or refuse permission will be taken after considering the specific circumstances of the firm and the following is a non-exhaustive list of the matters that may be considered:
 - a. whether at least 50 per cent of the rights to vote on all, or substantially all, matters of substance at meetings of principals are held by:
 - i. chartered accountants;
 - ii. firms which are themselves member firms;
 - iii. firms which are registered for audit work by the Institute;
 - iv. firms which are licensed under the designated professional body arrangements of the Institute;
 - v. firms which are controlled by members, provided that the firms are non-trading or engaged in public practice;
 - b. whether at least 50 per cent of the rights to vote on all, or substantially all, matters of substance at meetings of shareholders are held by:
 - i. chartered accountants;
 - ii. firms which are themselves member firms;
 - iii. firms which are registered for audit work by the Institute;
 - iv. firms which are licensed under the designated professional body arrangements of the Institute;
 - v. firms which are controlled by members, provided that the firms are non-trading or engaged in public practice;provided that at least one director is a member.
 - c. whether chartered accountants, regardless of the percentage of votes held, have the right to dismiss or appoint any principal;
 - d. if the firm has a managing board that directs the firm's affairs, whether at least 50% of the votes are held by chartered accountants or 50% or more of the members of the board are chartered accountants;
 - e. whether at least 50 per cent of the principals or shareholders are chartered accountants (provided that in the case of a company at least one director is a member);
 - f. whether the firm is registered by the Institute for company audit work or licensed by the Institute under the Designated Professional Body arrangements.
 - g. whether the firm is an authorised training employer (ATE).
- 5 If a firm is permitted to use the description under these arrangements, that permission may be with granted with such terms and conditions as are considered appropriate. These may include a requirement to notify the Institute of any change in the principals or the shareholders and that the Institute may review the continued grant of the permission in the light of the new information.