



THE INSTITUTE
OF CHARTERED
ACCOUNTANTS
IN ENGLAND AND WALES

21 April 2009

Our ref: ICAEW Rep 51/09

Julie Ford
Corporate Law and Governance Directorate
Department for Business, Enterprise and Regulatory Reform
1 Victoria Street
London
SW1H 0ET

By email:

Dear Julie

DRAFT REGULATIONS FOR COMMENT: THE COMPANIES (SHARE CAPITAL AND ACQUISITION BY COMPANY OF ITS OWN SHARES) REGULATIONS 2009

The Institute of Chartered Accountants in England and Wales (the Institute) welcomes the opportunity to comment on the draft *The Companies (Share Capital and Acquisition by Company of its Own Shares) Regulations 2009* published by the Department for business and Regulatory Reform in March 2009.

The Institute operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, the Institute provides leadership and practical support to over 132,000 members in more than 160 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. The Institute is a founding member of the Global Accounting Alliance with over 750,000 members worldwide.

We are pleased to comment on these draft regulations, which will (from 1 October 2009) amend provisions in Part 17 (A Company's Share Capital) and Part 18 (Acquisition by a Limited Company of its Own Shares) of the Companies Act 2006 (2006 Act).

We support the measures proposed in the draft regulations, which will:

- reduce the minimum pre-emption rights issue subscription period set out in section 562(5) of the 2006 Act from 21 days to 14 days, as recommended by the Rights Issue Review Group in November 2008;

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- introduce a new requirement in section 646 of the 2006 Act so that, when creditors object to a reduction in a company's capital, they must demonstrate that their claim is at risk and that the company has not provided adequate safeguards (this is equivalent to the requirement already implemented in the Companies Act 1985); and
- remove the 10% cap on companies holding shares in treasury, and extend the period for which authorisation may be given for the purchase of shares from 18 months to 5 years.

Please contact me should you wish to discuss any of the points raised in this response.

Yours sincerely

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