

Written evidence submitted by the Institute of Chartered Accountants in England and Wales (ICAEW) (FRE0086)

On behalf of the Institute of Chartered Accountants in England and Wales (ICAEW), I would like to thank you for the opportunity to provide further information to your inquiry. We were grateful to provide oral evidence to the Committee in the last Parliament, and would hope to have the opportunity to do this again in the future.

As you know, ICAEW supports over 180,000 chartered accountants and students worldwide. Our members advise over three million companies across all sectors and at all levels of the UK economy, including tens of thousands of SMEs. ICAEW has significant experience of working in European markets, on the basis of our ICAEW ACA training in a number of countries and the 6,000 plus members working in a variety of senior roles. In addition, ICAEW has been present in Brussels for approaching 30 years, working across a range of EU regulatory and legislative areas. ICAEW also chairs the Accountancy Sub-Group, which is part of a wider Professional and Business Services Council (PBSC), a sector led initiative that is co-chaired by the Minister for Business and Industry. The sub group considers the immediate and medium-term priorities for the accountancy profession in the new UK-EU relationship.

As the UK and EU near the end of the transition period, we continue to call for an agreement which delivers for the professional and business services (PBS) sector - employing one in seven of the UK workforce and acting to enable other sectors of the economy to flourish. It remains a matter of major concern that key aspects for the services sector risk being unaddressed, and this would be even more so the case should the UK leave on WTO terms.

Our core priorities for a trade agreement remain: mutual recognition of qualifications, a regulatory framework for statutory audit based on mutual recognition, mobility of professionals/talent and mutual recognition with respect to appointments and judgments concerning insolvency. Our overriding perspective is that of the public interest where the integrity and stability of markets are concerned. In addition to the specific provisions of the eventual trade agreement, our profession is particularly concerned with the unilateral EC decisions on equivalence and adequacy on statutory audit as well as in other financial areas. These are already delayed beyond the timeframe initially discussed. On all these areas, we have contributed detailed comments in writing and will be pleased to share with you, if useful.

Here, we provide our responses to the Committee's questions specifically on the mutual recognition of professional qualifications.

What are the key priorities of your members and your sector in general regarding mutual recognition of qualifications in the negotiations between the UK and the EU? Has the Covid-19 pandemic changed any of these priorities? What might be the consequences of a deal which does not meet these priorities?

Our key priority remains legal certainty with respect to the professional recognition of UK professional accountancy qualifications within the EU, in particular relating to statutory audit. We call for legal certainty both in relation to procedures for applications for professional recognition

as well as to the validity of practice rights when procedures are completed. Critically, we look for the negotiations to deliver a regime for professional recognition which fully takes into account qualifications already obtained, thereby requiring on the part of the applicant only the fulfilment of “compensation measures” which cover the gap between the two qualifications. In short, a regime which is accessible, practical in operational terms and most importantly avoids lengthy requalification requirements. A further aspect of the mutual recognition of qualifications relates to economic rights associated with being part of a legal entity; that is to say rights to manage or participate in the capital or control of an entity. This is highly relevant for pan-European accountancy firm registrations. Currently, Single Market rules provides these legal certainties and rights.

The overall regime which the UK remains part of until the end of December 2020 enables mobility within the accountancy profession to support audit quality and professionalism across the range of accountancy services. It also serves to support the international standing of UK professional qualifications, and their attractiveness to potential students, on the basis that portability is key. We see adverse consequences in both respects if the eventual deal does not provide these certainties from 1 January 2021. In the absence of an agreement on the recognition of qualifications, UK qualification holders who are UK nationals seeking recognition to work in regulated professions in the EEA or Switzerland will be subject to individual host states’ policies on mutual recognition of qualifications. This raises the potential risk of lengthy requalification requirements.

Our views on the matters have not been substantially altered by Covid-19 – if anything, the case for mobility to support audit quality and professionalism is further enhanced given the importance of timely and reliable financial information in periods of economic dislocation.

To what extent did the UK Government consult your sector before publishing its negotiating aims and draft texts? How well does what the Government has proposed meet its needs? What further provisions would you have advised the Government to seek?

Both individually as ICAEW, and also through the Accountancy Sub-Group of PBSC, we have benefitted from regular dialogue with BEIS throughout the negotiation. As is publicly known, the UK Government chose to delay the publication of its negotiating text: inevitably, this restricted the capacity to fully appreciate the positions taken. However, through the dialogue with BEIS, it was clear that our key priorities were well understood by the UK Government and were introduced into the negotiation. We also note that the Financial Reporting Council (FRC) has participated in this dialogue.

How do the UK and the EU’s positions in the negotiations compare with regard to mutual recognition of professional qualifications? On which areas are the UK and EU’s aims farthest apart? Where do their positions align? What is your assessment of the level of technical detail the negotiators have grappled with on this topic to date?

Our response to this question necessarily refers primarily to the legal texts which have been made public on both sides. From these, it appears that there is significant distance between the two positions. As is publicly known, the statements of the EU27 negotiators have also stated that the outcome of negotiations on mutual recognition, and services overall, is dependent on wider

issues, notably “level-playing field”, overall governance arrangements etc. We remain very hopeful nevertheless that the distance between the two sides can be bridged.

To our understanding, the gap between the two sides comes from the following: the EU text foresees a CETA style mechanism which establishes a governance structure and a forum in which mutual recognition arrangements can be negotiated in the future; the UK approach already foresees a system for professional recognition for migrant professionals and outlines how this would function in practice. The UK approach, while considerably closer to our priorities than the CETA-style model, is still some way short of the current Single Market rules and notably does not cover cross-border service provision. The EU proposal raises serious concerns given the risk that negotiations across the various professions could take considerable time and still deliver only uncertain outcomes. We are also very concerned that negotiations over mutual recognition relating to economic rights, as described above, do not appear to be progressing at all.

It is difficult to assess the degree of technical detail which has been discussed in the negotiations. The EU did not publish the annex to the CETA-style arrangements - rather just a “placeholder” was included. We understand that the negotiations are continuing to clarify how the proposed governance structure and forum in the EU proposal would operate. It appears that relevant competent authorities would put forward proposals for a recognition agreement to a ‘Partnership Council’ established within the FTA. The Council would then review the recommendation and develop and agree the UK-EU recognition arrangements for that profession. As noted, we have serious concerns about the impact of such arrangements on the timeframe for having legal certainty in place as well as the degree of legal certainty. It is our understanding that since its agreement in 2017, there have been no mutual recognition agreements signed between Canada and the EU. This raises serious questions about this model's effectiveness.

We also draw attention to the fact that the EU Statutory Audit Directive contains a provision (Article 44) for the reciprocal recognition of statutory auditors between individual Member States and third countries. While we see it as highly preferable that an over-arching arrangement is agreed between the UK and the EU for professional recognition in accountancy as a whole, encompassing statutory auditors, the prompt pursuit of bilateral reciprocal agreements via Article 44 will be very important if no-such over-arching agreement is secured. It is also a matter for clarification as to whether the Partnership Council mechanism envisaged in the EU FTA text could prevent, either legally or in practice, such bilateral agreements for audit. If this is the case, we would have further serious concerns, given the fact that the Partnership Council may take time to come to decisions.

How does the EU’s position on mutual recognition of professional qualifications compare to that which it held in negotiations on CETA with Canada and the EU-Japan FTA? To what extent are these FTAs suitable precedents for a UK/EU deal?

Please see our response to the question above.

To what extent is the UK seeking provisions on mutual recognition of professional qualifications unprecedented in existing free trade agreements? What would be the advantages and

disadvantages of agreeing these provisions for each party? Why might agreeing such provisions prove difficult?

It is the case that ICAEW has called for mutual recognition of professional qualification arrangements that go beyond any existing free trade agreements with the EU. The UK proposed legal text also does so, as noted above. ICAEW has established its position in recognition of the limitations of existing free trade arrangements, in relation to timeliness, legal certainty of process and overall effectiveness of the arrangements. It is also appropriate to reiterate that a fall-back to WTO terms would be very regrettable, given the absence of any meaningful mutual recognition provisions under the GATS

How is responsibility for, and competence over, professional qualifications divided between the European Union, national governments, and trade associations and professional bodies? To what extent does this complicate the mutual recognition of professional qualifications aspect of the UK/EU future relationship negotiations? What impact might it have on the implementation of any future deal?

The picture is somewhat complicated across Europe where responsibility for professional qualifications and mutual recognition arrangements is concerned, as there are differences across different areas of the profession's activities and also differences across countries. Within the Single Market arrangements, complexities certainly remain but there is an overriding legal reference point, framework and process for the granting of professional recognition, whoever is specifically responsible for its national implementation. The primary concern that ICAEW has with respect to the EU FTA proposal is that the differences in responsibilities and in the scopes of professional titles could hamper timely progress through the envisaged Partnership Council.

To what extent have you engaged with your counterparts in EU Member States to progress mutual recognition of qualifications on a bilateral basis, outside the framework of a future UK/EU agreement; and if you have, what progress has been made?

We have been engaging in a targeted way with certain EU counterparts where ICAEW has established interests. We are also a founding member of the [Common Content project](#) which seeks to align leading European accountancy and audit qualifications. Overall, it will be important to receive clarification with regard to Article 44 procedures in order to fully assess the pursuit of bilateral agreements across the whole of Europe.

Could you sketch out a possible compromise between the UK and the EU on mutual recognition of professional qualifications and how it might be achieved?

It is difficult for ICAEW to provide such a sketch at this stage, as we are not in possession of sufficient information on the detailed negotiations, including on what has been considered as possible content for the Annex to the Partnership Council as referenced in the EU FTA proposal. However, we would be pleased to come back to this if and when further details of the positions of both side are made known. It remains our sincere hope that a good agreement, delivering the type of mutual recognition arrangements we have called for all along, can still be achieved.

July 2020



Committee on the Future Relationship with the European Union

House of Commons, London, SW1A 0AA

Email: freucom@parliament.uk Website: <https://committees.parliament.uk/committee/366/committee-on-the-future-relationship-with-the-european-union/>

2 July 2020

Mr Michael Izza
Chief Executive
Institute of Chartered Accountants in England and Wales

Dear Mr Izza,

The House of Commons Committee on the Future Relationship with the European Union is inquiring into the progress of the negotiations between the UK and the EU. Under normal circumstances, the Committee holds regular oral evidence sessions in Westminster. However, measures to prevent the spread of the coronavirus make this difficult.

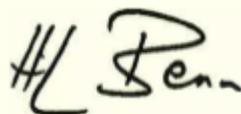
The Committee is keen to gather as much evidence as possible to inform its deliberations so I am writing to you to ask whether you would be willing to help us with our work by making a written submission. We welcome general responses to our [call for evidence](#), which was published on 4 March. We also hope that you would be willing to answer some of the more specific questions set out below on the mutual recognition of professional qualifications. Submissions need not address every bullet point and can include other matters that you think are relevant to the negotiations and should be drawn to the attention of the Committee.

- What are the key priorities of your members and your sector in general regarding mutual recognition of qualifications in the negotiations between the UK and the EU? Has the Covid-19 pandemic changed any of these priorities? What might be the consequences of a deal which does not meet these priorities?
- To what extent did the UK Government consult your sector before publishing its negotiating aims and draft texts? How well does what the Government has proposed meet its needs? What further provisions would you have advised the Government to seek?
- How do the UK and the EU's positions in the negotiations compare with regard to mutual recognition of professional qualifications? On which areas are the UK and EU's aims farthest apart? Where do their positions align? What is your assessment of the level of technical detail the negotiators have grappled with on this topic to date?
- How does the EU's position on mutual recognition of professional qualifications compare to that which it held in negotiations on CETA with Canada and the EU-Japan FTA? To what extent are these FTAs suitable precedents for a UK/EU deal?
- To what extent is the UK seeking provisions on mutual recognition of professional qualifications unprecedented in existing free trade agreements? What would be the advantages and disadvantages of agreeing these provisions for each party? Why might agreeing such provisions prove difficult?
- How is responsibility for, and competence over, professional qualifications divided between the European Union, national governments, and trade associations and professional bodies? To what extent does this complicate the mutual recognition of professional qualifications aspect of the UK/EU future relationship negotiations? What impact might it have on the implementation of any future deal?
- To what extent have you engaged with your counterparts in EU Member States to progress mutual recognition of qualifications on a bilateral basis, outside the framework of a future UK/EU agreement; and if you have, what progress has been made?
- Could you sketch out a possible compromise between the UK and the EU on mutual recognition of professional qualifications and how it might be achieved?

- Based on the parameters set out by the UK and EU draft legal texts, could reaching an agreement with the EU restrict the UK's ability to pursue a free trade agreement covering mutual recognition of professional qualifications with third countries? If so, how?
- What would happen if agreement was not reached between the UK and the EU on mutual recognition of professional services? What would be the international legal baseline they would fall back on? What would be the consequences of this for your members and your sector in general?
- What implications could other provisions of a future UK/EU agreement have on your members and your sector in general (for example, those related to cross-border trade in services or labour mobility)?
- Is it clear what your members and employers in your sector must do to prepare for the end of the transition period? How much progress have been made on preparations so far? Do SMEs face any additional challenges?
- What provisions exist in the Ireland/Northern Ireland Protocol on mutual recognition of professional qualifications? How might the all-island economy be affected by the UK leaving the transition period with different forms of UK/EU future relationship?

The Committee staff will be happy to discuss the inquiry, any issues raised, or the process for submitting written evidence. You can contact them at freucom@parliament.uk.

Yours,

A handwritten signature in black ink, appearing to read 'H Benn'.

Hilary Benn
Chair of the Committee