

# Professional and Business Services Sector Report

*This report covers Audit and accounting; Business services; Professional services; and Legal services.*

1. This is a report for the House of Commons Committee on Exiting the European Union following the motion passed at the Opposition Day debate on 1 November, which called on the Government to provide the Committee with impact assessments arising from the sectoral analysis it has conducted with regards to the list of 58 sectors referred to in the answer of 26 June 2017 to Question 239.
2. As the Government has already made clear, it is not the case that 58 sectoral impact assessments exist. The Government's sectoral analysis is a wide mix of qualitative and quantitative analysis contained in a range of documents developed at different times since the referendum. This report brings together information about the sector in a way that is accessible and informative. Some reports aggregate some sectors in order to either avoid repetition of information or because of the strong interlinkages between some of these sectors.
3. This report covers: a description of the sector, the current EU regulatory regime, existing frameworks for how trade is facilitated between countries in this sector, and sector views. It does not contain commercially-, market- or negotiation-sensitive information.

## Description of sector

4. The Professional and Business Services (PBS) sector covers a range of diverse knowledge-intensive industries which provide specialised support to businesses. Covered sectors include legal services, audit, accountancy, advertising and market research, management consultancy, architectural and engineering activities and employment activities.
5. The sector accounts for almost 11per cent (£186billion) of the UK economy's gross value added<sup>1</sup> and 13per cent (4.6million) of employment.<sup>2</sup> It is diverse, and many of its subsectors are knowledge-intensive and highly geographically mobile. The UK is a major exporter of PBS, providing 27per cent (£66.0billion) of the UK's services exports.<sup>3</sup> It is strongly competitive, being within the top three exporters of these services in the Organisation for Economic Cooperation and Development (OECD) in 2015 (with the US and France).<sup>4</sup> The PBS industry provides business-to-business services for other parts of the economy.

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<sup>1</sup> GDP(O) Low Level Aggregates National Accounts ONS, 2017

<sup>2</sup> BIS Calculations on ONS Employee and Self Employed jobs

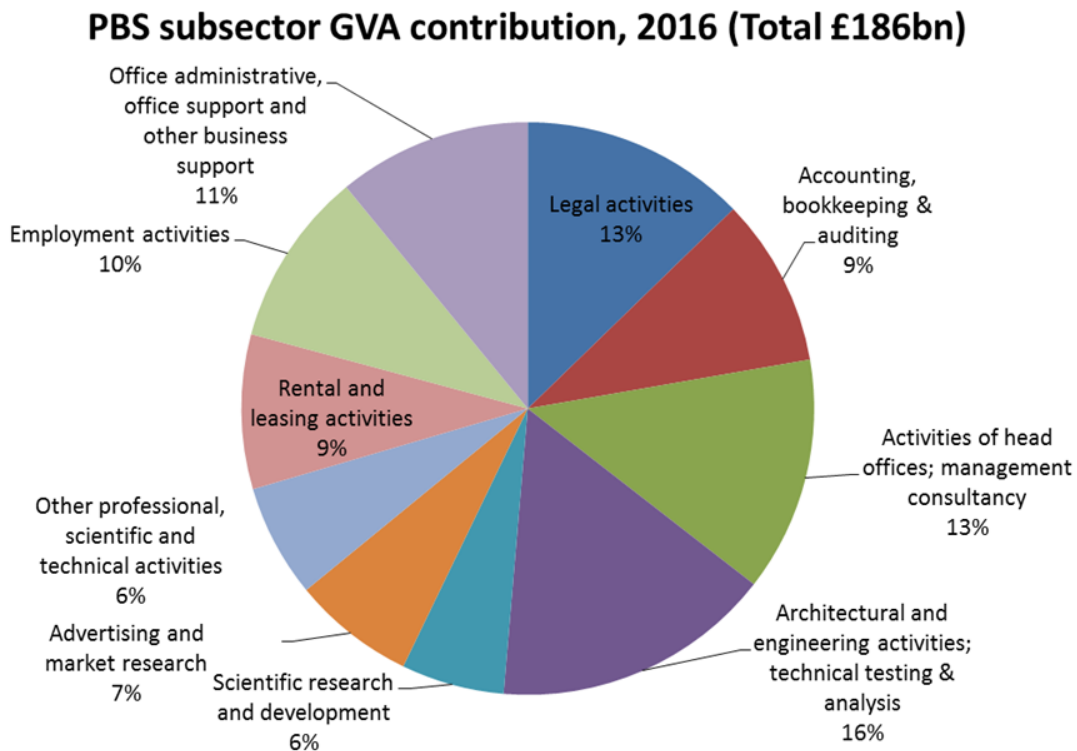
<sup>3</sup> ONS Pink Book 2017

<sup>4</sup> OECD Trade in Services statistics, 2015

**What are professional and business services?**

6. PBS includes a diverse set of high-skilled and tradable services. The character of the industry is dynamic and evolving. New services emerge to meet market needs, whether gradual or sudden: as a result growth has not been uniform across the sector. Whilst some areas of services have grown strongly, some professions are closer to a mature, albeit still expanding state.
7. The key PBS sectors as captured by the following Standard Industrial Classifications are:
  - a. 69-Legal activities/accounting, bookkeeping and audit;
  - b. 70-Activities of head offices, management consultancy;
  - c. 71-Architectural and engineering activities, technical testing and analysis;
  - d. 72-Scientific research and development;
  - e. 73-Advertising and market research;
  - f. 74-Other professional, scientific and technical activities;
  - g. 77-Rental and leasing activities;
  - h. 78-Employment activities;
  - i. 82-Office administration and other business support activities.
8. Figure 1 shows the shape of the PBS industry in terms of the value generated by these categories.

Figure 1 ONS UK GDP(O) low level aggregates, ONS 2017



## **The diversity of PBS**

9. The UK PBS industry is often characterised in terms of hosting top international firms, such as the “big four” accountancy and professional services networks, the “magic circle” of international law firms, and large business services firms. Five of the largest 15 Global 100 law firms, based on number of lawyers in 2016/2017, have their main base of operations in the UK. In terms of revenue, UK-based firms held three of the top ten places.<sup>5</sup>
10. There is a high concentration of Small and Medium Enterprise (SME) PBS enterprises within the UK. Barriers to entry and concentration levels are generally low, with intellect, ideas and personal contacts more important than capital assets. Less than 1 per cent of PBS enterprises are large (+250 employees) – 1,355 out of approximately 595,000 registered enterprises in 2016.<sup>6</sup>
11. The sector mixes high-skilled professions, such as law and accountancy, with other business services, such as the outsourcing industry, which delivers business support and public services in the UK and overseas.
12. The PBS industry contributes to wider UK economic growth and productivity by providing innovative solutions and business approaches.
13. The PBS sector is often seen as an “eco-system” of interlinked services. Sub-sectors buy and sell significant amounts of services to and from each other.

## **Close links with financial services**

14. PBS firms, particularly legal, accountancy and some consultancy services are related to financial services firms. 14per cent (£39billion) of the UK economy’s intermediate demand for PBS is from financial services. Conversely, PBS accounted for 28 per cent of total intermediate consumption by financial services.<sup>7</sup> Financial services are an important customer for PBS and there is significant interdependence between the sectors, maintaining competitiveness in PBS is thus important for financial services.

## **PBS is a significant contributor to UK Gross Value Added (GVA)**

15. The PBS industry is a large sector. In 2016, it contributed £186billion GVA, which was equivalent to 11 per cent of the UK’s total.<sup>8</sup>

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<sup>5</sup> <https://www.thecityuk.com/assets/2017/Reports-PDF/Legal-excellence-internationally-renowned-Legal-services-2017.pdf>

<sup>6</sup> ONS Business Activity Size and Location 2016

<sup>7</sup> ONS Supply and Use Tables 2015, October 2017

<sup>8</sup> GDP(O) Low Level Aggregates National Accounts ONS, 2017

16. The PBS industry has grown relatively strongly over recent years, particularly since the 2008 financial crisis. Between 2000 and 2016, the largest annualised growth in GVA has been recorded in consultancy and employment services subsectors.

***The PBS industry is a big employer across the UK***

17. The PBS industry accounted for 4.6million direct jobs (13 per cent of the UK workforce) in 2016.<sup>9</sup> This industry is a significant employer right across the UK, but it is particularly significant in London and the South East. That said, around 60 per cent (see Figure 2) of employment in the PBS industry is outside of London and the South East, where there are leading regional centres, such as Manchester and Edinburgh where eco-systems of PBS support local economic growth and intermesh with financial services.

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<sup>9</sup> ONS workforce jobs, 2016

Table 1: PBS Contribution to UK GVA and Employment<sup>10</sup>

|   | Gross Value Added             |                   | Workforce Jobs                |                   |
|---|-------------------------------|-------------------|-------------------------------|-------------------|
|   | Annualised Growth (2000-2016) | Share of Total UK | Annualised Growth (2000-2016) | Share of Total UK |
| Legal and Accountancy Services  | 3.6%                          | 2.4%              | 1.2%                          | 2.2%              |
| Activities of head offices; Management consultancy activities <sup>11</sup> | 7.2%                          | 1.4%              | 6.2%                          | 2.4%              |
| Architectural and engineering activities; Technical testing and analysis    | 4.7%                          | 1.7%              | 2.4%                          | 1.8%              |
| Scientific research and development   | 6.1%                          | 0.6%              | 2.3%                          | 0.4%              |
| Advertising and market research   | 1.9%                          | 0.7%              | 2.4%                          | 0.7%              |
| Other professional, scientific and technical activities                     | 3.2%                          | 0.7%              | 5.5%                          | 1.1%              |
| Rental and leasing activities   | 3.6%                          | 0.9%              | 0.4%                          | 0.5%              |
| Employment activities   | 7.5%                          | 1.1%              | 2.0%                          | 2.7%              |
| Office administrative, office support and other business support activities | 4.1%                          | 1.2%              | 2.5%                          | 1.5%              |
| Total Professional and Business Services                                    | 4.5%                          | 10.7%             | 2.7%                          | 13.4%             |
| Total UK  | 1.7%                          | 100.0%            | 0.9%                          | 100.0%            |

### **The national and regional footprint of PBS**

18. Although PBS firms are spread across the UK, London hosts the major cluster of firms that operate internationally and which are closely interrelated with the financial services hub. London combines highly skilled people, networks and a rich mix of capabilities to tailor services to international clients. This combination is also found in regional/national centres across the UK, like Birmingham, Manchester and Edinburgh. In legal services, international commercial work is centred on London, employing around 17,000 lawyers within 58 firms.<sup>12</sup> Other PBS, such as senior level

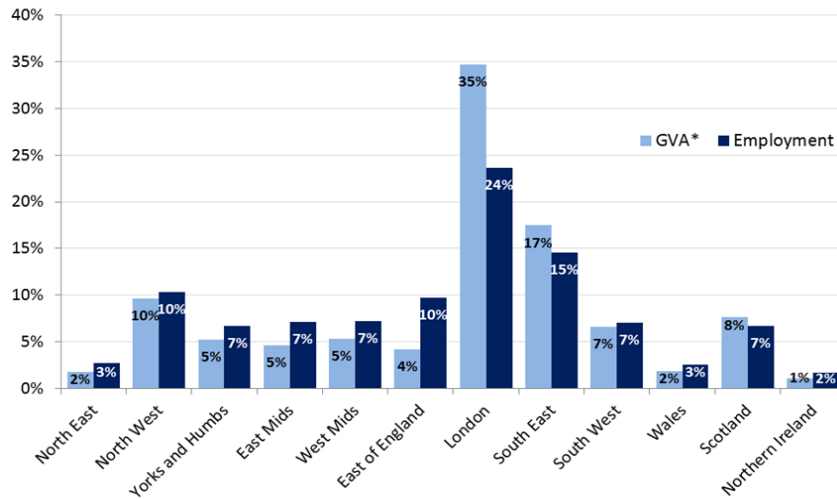
<sup>10</sup> ONS GDP (O) low level aggregates and ONS workforce jobs, 2016

<sup>11</sup> Whilst this category covers the activities of head offices, employment and GVA in this subsector is dominated by management consultancy firms.

<sup>12</sup> This is an indicative figure, taking account of the membership of the City of London Law Society.

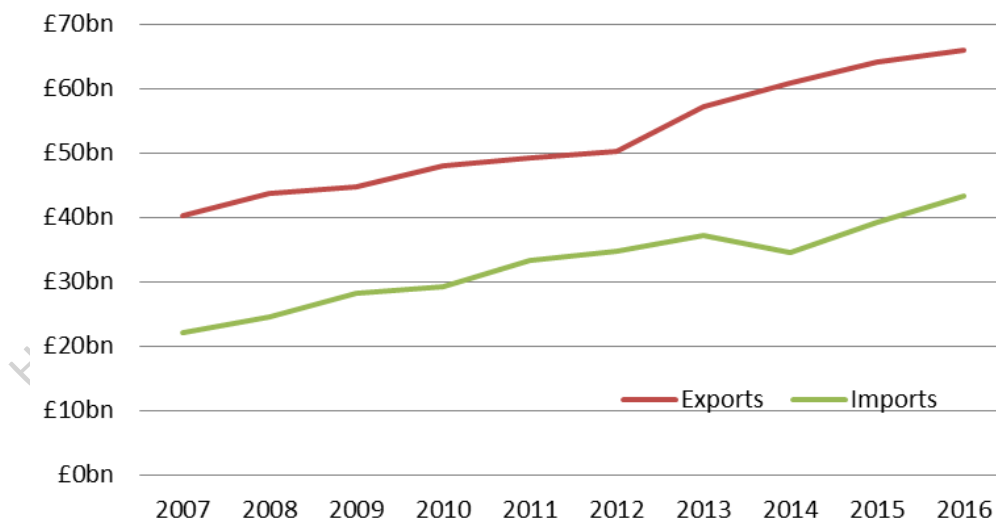
recruitment (headhunting) and advertising, service the location of other business headquarters located in London.

Figure 2: Employment in the PBS industry, 2014<sup>13</sup>



**Trade: the PBS industry is a strong, growing export sector for the UK**

19. PBS delivered £66billion worth of exports in 2016, which was 27 per cent of the UK total services exports, with a £23billion surplus.<sup>14</sup> PBS exports have grown over recent years from £40billion in 2007 to £66billion in 2016. This trend is shown in figure 3. 36 per cent of PBS exports in 2016 went to the EU and 27 per cent to the



<sup>13</sup> ONS Business Registers and Employment data, GVA estimates based on calculations from national accounts, GDP (O) low level aggregates and the Annual Business Survey.

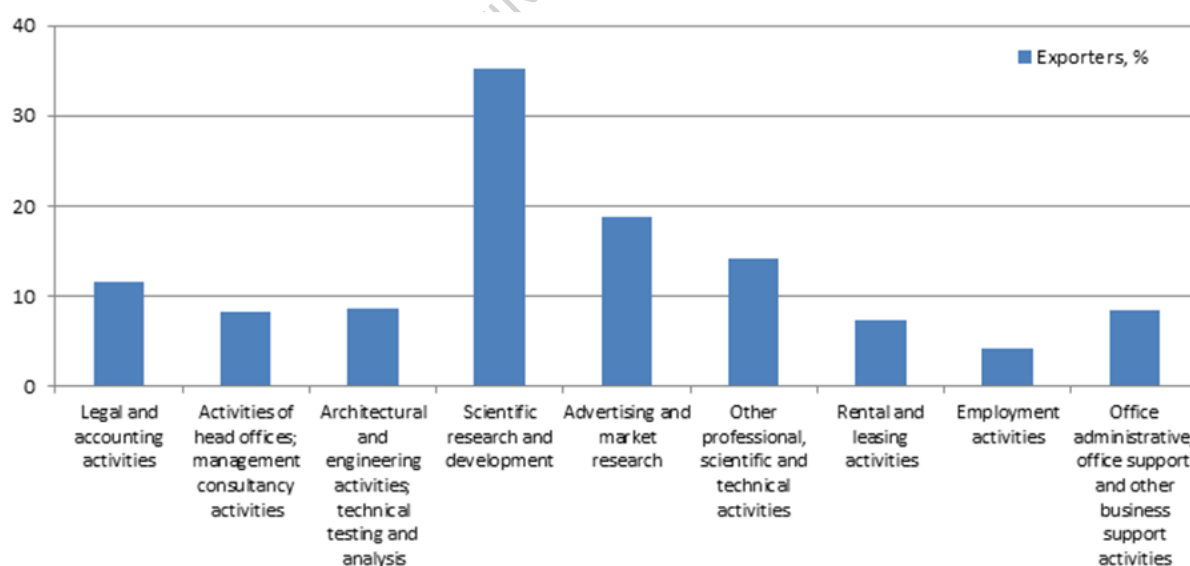
<sup>14</sup> ONS Pink Book 2016, 31 October 2017

US. Major EU partners include Netherlands, Ireland, Germany and France (between £2billion and £4billion UK exports to each).

Figure 3: PBS Imports and exports over time<sup>15</sup>

20. The OECD's Trade in Value Added data show that 88 per cent of the value of UK exports in this sector was domestically supplied.<sup>16</sup> This is probably underestimated by the official statistics, which do not fully capture the extent to which UK PBS firms operate overseas, either by travelling to the customer destination or establishing an overseas commercial presence.
21. The ONS Annual Business Survey estimates that around 10 per cent of firms in the sector export goods and services internationally (in line with the whole economy average); this figure increases to over 35 per cent in the scientific research and development (R&D) services and to over 18 per cent in Advertising & Market research sub-sectors. This is shown in Figure 4.
22. The global market for other business services imports, excluding the UK, was worth around £661 billion in 2015. This includes professional and management consulting services like architecture and advertising, as well as R&D and technical services like engineering services. Countries besides the 27 other EU Member States accounted for £369 billion, or 56 per cent, of this global market.<sup>17</sup>

Figure 4: Share of businesses in PBS sub-sectors that export goods and services, 2016<sup>18</sup>



<sup>15</sup> ONS Pink Book 2016,, 31 October 2017

<sup>16</sup> OECD, Trade in Value Added 2011 indicators (2016 edition)

<sup>17</sup> Data obtained from ITC, UNCTAD, WTO trade in services database based on Eurostat, International Monetary Fund, Organisation for Economic Co-operation and Development (OECD) and relevant national statistical authorities statistics. The value of the global market is defined as the sum of every country's imports for whom data was available, minus the value of the UK imports.

<sup>18</sup> ONS Annual Business Survey, exporter data 2015, 9 November 2017

23. The supply of goods and services are increasingly intertwined, such that trade barriers in one can affect the other. Services account for 25 per cent of manufacturing inputs (average across Europe).<sup>19</sup> 37 per cent of the total value of UK manufactured goods exports in 2011 reflected service sector value added.<sup>20</sup>
24. Foreign Direct Investment (FDI) data is available for the Professional, Scientific and Technical Services and Administrative and Support Services ONS sector aggregations.<sup>21</sup> This estimates inward investment in UK PBS companies of £86billion in 2015. Of this, more than half (£44billion) was investment from elsewhere in the EU. Outward investment from the sector – one of the ways in which services firms internationalise their business and export – was £51billion in 2015. Of this, 39 per cent (£20billion) was invested by UK companies in the EU.<sup>22</sup>

### ***The UK as a global hub of PBS***

25. The trade statistics (figure 3 above) show growing PBS exports. This is complemented by the UK's, particularly London's, status as a "come-to" international centre with an infrastructure of expertise contributing to the UK being a successful global centre for PBS. Some of the factors supporting the UK as a successful global centre for PBS raised by businesses are:
- a relatively "international-facing" sector of the UK economy<sup>23</sup>;
  - symbiotic relationship with the key financial centres of the European time zone;
  - pre-eminence of the English language;
  - access to talent from the UK's world class universities and creative arts centres;
  - hosting of professional institutes, which not only control entry into the professions, but also advise on ethical standards, monitor activities and require continual professional developments;
  - the UK's positive business environment. The rule of law underpins delivery of services. The UK's offer in international commercial law and arbitration rests on the clarity and consistency of the UK's legal system and the independence of the judiciary; the body of expertise in the UK's world class law firms; and confidence in enforceability of UK court judgements across the EU and more widely. The sector also underlines the importance of maintaining a globally competitive taxation and regulatory framework, and this has been a focus for

<sup>19</sup> "[Study on the relation between industry and services in terms of productivity and value creation](#)", ECSIP Consortium report for DG Enterprise, 2014

<sup>20</sup> OECD Trade in Value Added (TiVA) data.

<sup>21</sup> ONS Standard Industrial Classification sections M and N. This is a slightly broader definition that also includes: veterinary activities, security and investigation activities, travel agency and tour operators, services to building and landscape activities.

<sup>22</sup> ONS, FDI involving UK companies: 2015, 2 December 2016

<sup>23</sup> Architecture illustrates this. A 2012 survey showed 15% of UK architects as working internationally compared to less than 3% on average across the whole of the EU (including the UK). '[The Architectural Profession in Europe](#)', ACE, December 2012



the BEIS-sponsored leadership council for PBS, the Professional and Business Services Council.

### ***PBS and EU funding***

26. Most PBS subsectors are not significant recipients of EU funding, with the exception of scientific research and innovation. The PBS sector includes both the technical testing and scientific research and development industries which provide contracted out research facilities for the rest of the economy. This sector also benefits from funding of R&D and science projects from the EU. Technical testing is in many cases tied directly to EU regulations of products and sectors (e.g. construction materials, food, consumer products).
27. Other EU funding may contribute indirectly to PBS – in particular, the range of EU grants and loans for SMEs which can come from all sectors. Many SME support programmes are funded through an intermediary, thus making it difficult to identify the exact nature of the end recipient. Funding for SMEs may come through the European Structural Funds (European Regional Development Fund, European Social Fund, and the Cohesion Fund) and COSME, an EU support programme for SMEs.
28. However, there is PBS activity that supports other sectors bidding for and administering EU grant funding, especially from accountants, lawyers, management consultants and more specialist professional services as relevant.

### **The current EU regulatory regime**

29. PBS sectors are generally regulated at domestic level, rather than at EU level. The EU Single Market therefore generally serves to remove barriers to trade in services that could otherwise be introduced by domestic rules, including discriminatory prohibitions, disproportionate regulation, and barriers to the free movement of persons providing and receiving services. The Single Market measures also include a framework for the mutual recognition of professional qualifications. In addition, PBS businesses are impacted by a wide range of other EU rules, including those that affect their client businesses – such as the Single Market in goods, and Financial Services regulation – and those that affect their ability to employ EU nationals in the UK.
30. The EU Treaty sets out the core principles of the Single Market in services. Under the EU's Single Market<sup>24</sup> service providers enjoy free movement of services on a temporary basis (including free movement of the service provider) and freedom of establishment (the right to be self-employed, or to set up a business, or a subsidiary or branch, in another Member State). These principles are developed further in EU legislation, including the Services Directive and the Mutual Recognition of

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<sup>24</sup> Further information is here: [https://ec.europa.eu/growth/single-market/services\\_en](https://ec.europa.eu/growth/single-market/services_en)

Professional Qualifications Directive. Sector-specific provisions exist for lawyers and for auditors.

31. EU legislation that supports the provision of professional business services is generally applicable to Gibraltar but not Crown Dependencies or other Overseas Territories.

### ***The main sector-specific rules***

32. The two main pieces of EU legislation which support the Single Market in services are the Services Directive 2006/123/EC and the Mutual Recognition of Professional Qualifications Directive 2005/36/EC. These are summarised as follows:

#### **Services Directive 2006/123/EC**

The Services Directive aims to remove discriminatory, unjustified or disproportionate requirements affecting the set up or carrying out of a PBS activity (among other service sectors) in another EEA State. It also sets up national Points of Single Contact which enable service providers to apply and pay for authorisations (to offer or provide services) online. The removal of these barriers makes it easier and cheaper for companies to trade cross-border within the EEA, and increases competition and productivity in European service markets.

#### **Mutual Recognition of Professional Qualifications Directive 2005/36/EC**

The Mutual Recognition of Professional Qualifications Directive (Directive 2005/36/EC, as amended by Directive 2013/55/EU) supports the principle of free movement of skilled professionals by enabling a professional qualification granted to an EU citizen in one Member State to be recognised in another Member State for the purpose of allowing the holder to practice a regulated profession. EU citizens may also rely on the Directive to have qualifications obtained in a third country and recognised in a Member State to be taken into account by regulators in another Member State. The Directive covers both the temporary provision of services in another Member State, and establishment by a professional wishing to practise their profession in another Member State. The Directive is supplemented by other profession-specific Directives, for example auditors (covered by Directive 2006/43/EC).

For these professions there are two systems by which a professional can have their qualifications recognised – the automatic and the general system. Under the automatic system, a professional in one of seven professions that are included who possesses particular qualifications, their qualifications may be automatically recognised across all Member States (these qualifications are listed in Annex V of the Directive). The general system is for other professionals within the scope of the Directive. The host Member State must consider an applicant's professional

qualifications. If applicant's qualifications are equivalent to those required to practice the profession in the host State, the applicant must be granted access to the profession. If there are substantial differences between the applicant's qualifications and those required to practise the profession in the host Member State, applicants may be required to take an aptitude test or undertake an adaption period to demonstrate they have the necessary knowledge and skills to practice the profession.

The Directive also introduces the concept of a European Professional Card, which currently applies to five professions (real estate agents, nurses responsible for general care, pharmacists, physiotherapists, and mountain guides), with the potential to be expanded to other sectors, providing an electronic certificate showing the professional has met the necessary conditions to provide services or become established in another Member State.

33. Since 1997, over 26,000 UK qualifications have been recognised on a permanent basis in other EU countries. Over the same period, over 120,000 qualifications from other EU countries have been recognised on a permanent basis in the UK.<sup>25</sup>

#### ***EU legislation which is specific to sub-sectors of PBS***

##### *a) Audit Directive (2006/43/EC) (amended by Directive 2014/56/EU) and Regulation (537/2014)*

34. The UK's audit regulatory framework has developed out of a series of Directives to harmonise the regulation of professional auditors and audit firms and to impose a considerable body of EU regulation: on auditor appointment; on the maintenance of relations between the auditor and the client's senior management; on the application of technical standards on audit work; on comparable codes to maintain auditor independence; and on the regulation of auditors through inspections, investigation and enforcement.
35. The audit framework provides for some free movement of EU auditors with provision for aptitude tests or adaptation periods by Member State authorities to enable mutual recognition of qualifications. The Audit Directive also makes some provision for the audit of non-EU businesses that are listed on UK capital markets. This framework has developed over time with the objective of protecting investors. The EU framework now recognises that a different approach is needed in respect of UK and other EU firms auditing overseas.
36. Cross-border supply of audit services is quite rare because of the significant economic regulatory concerns and the resulting controls in most countries, which restrict supply. In most large economies, auditors are established and regulated within their client's jurisdiction, though the Directive now facilitates cross border

<sup>25</sup> <http://ec.europa.eu/growth/tools-databases/regprof/index.cfm>

supply of audit services by firms, subject to certain regulatory preconditions. In addition to mutual recognition of qualifications for those permitted to sign audit reports, ownership and management of an audit firm are also subject to requirements that the majority of owners and managers must hold mutually recognised qualifications or, for firms, registrations. Within the confines of this framework, mutual recognition allows audit firms to develop ownership structures across borders.

37. The framework also prescribes how national audit regulators (competent authorities) should cooperate internationally, both within and outside the EU, and sets out how auditors of businesses listed on the main capital markets should be regulated if the business is established overseas (this framework primarily affects UK auditors of non-EU businesses listed on UK markets).
38. The structure of the UK accountancy sector means that many aspects of this framework indirectly affect almost all services offered by almost all accountancy firms. This is partly because of necessary regulation as to which other services a business may procure from its auditor, and how it can then ensure the auditor's continued independence. In addition in the UK, the regulatory oversight of audit firms is the starting point for the UK's non-statutory regulatory framework for wider accountancy services.

*b) Accounting Directive (2013/34/EU as amended by 2014/95/EU), Non-Financial Reporting Directive (2014/95/EU), and International Accounting Standards Regulation (1606/2002)*

39. This framework sets out the accounting and reporting requirements that most businesses have to meet and which form the basis for audit by accountants and auditors. The framework is comparable to others internationally, particularly in the way that it is implemented in the UK. It mandates the use of international accounting standards as adopted by the Commission for accounts of listed groups. It also provides underpinning requirements for the accounts and reports of all other companies that are then prepared in accordance with national accounting standards and guidance. In the UK these standards are increasingly aligned with international norms beyond the EU.
40. The audit and accounting framework primarily relates to the preparation and audit of accounts within the EU. The accounting framework, together with the disclosure and transparency frameworks, enable companies to raise capital in EU markets by providing information on the company's financial performance and position to investors on a standardised basis. UK accounting and legal firms offer advisory and assurance services to companies to assist in this capital raising. Certain European Commission level decisions mean that third country issuers are able to list their securities on an EU market so long as their accounts and reports are produced in compliance with the international accounting standards or those of third countries, e.g. the US, that are deemed equivalent by the Commission.

*c) Lawyers Establishment Directive (98/5/EC) and Lawyers Services Directive (77/249/EEC) set out specific procedures for cross-border provision of legal services and establishment of lawyers.*

41. The Lawyers Services Directive governs the provision of services by an EU lawyer in a Member State other than the one in which they gained their title. It is intended to facilitate provision of legal services on a “fly-in-fly-out” basis, but it does not deal with establishment in another EU Member State. The Directive provides that a lawyer offering services in another Member State may do so under their home title. They can provide the same services as a legal professional in the host State, without complying with any residency or regulation requirements that would apply to lawyers qualified in the host State or to be introduced in accordance with local law to the presiding judge or President of the relevant host state Bar. However, they may be required to work in conjunction with a lawyer from the host State when representing clients in legal proceedings. The rules of professional conduct of the home state apply without prejudice against the rules of the host state, notably confidentiality, advertising, conflicts of interest, relations with other lawyers and activities incompatible with the profession of law.

42. The Lawyers Establishment Directive requires each Member State to provide for lawyers qualified in other Member States to be able to practise on a permanent basis, whether on a self-employed or salaried basis. The framework requires regulators within each Member State to establish a framework for registration of EU lawyers, who are then able to practise under the title under which they qualified. This includes legal services in the host Member State’s law, as well as EU law and their home Member State’s law, subject to the host Member State’s regulatory arrangements. After three years of regular and effective practise of the host state law, the individual can then apply to practise under the host Member State’s professional title, without having to comply with other conditions, such as compensatory measures under the MRPQ Directive, or, if they have practised for less than 3 years, they may still apply to be exempted, or they can seek recognition under the MRPQ Directive and complete any compensatory measures required. For the UK, this Directive enables UK lawyers to practise across the EU under their UK professional title and, after three years of effective and regular practice in the law of the host state, to practise under the professional title of the Member State they are practising in (on a permanent basis). It also allows UK law firms to operate in other Member States, providing domestic as well as EU and home state law, jointly with domestic lawyers in that State.

*d) EC Regulation on Insolvency Proceedings (2000/1346/EC), in the process of being replaced by the EU Regulation on Insolvency Proceedings (recast) (2015/848/EU) and the Recast Judgments Regulation (Brussels 1) (2012/1215/EU) in respect of schemes of arrangement.*

43. There are also EU rules dealing with jurisdiction, applicable law and recognition of insolvency proceedings in cross-border insolvencies.

### **Other EU legislation which affects PBS**

44. Other EU legislation matters to PBS because it applies directly to their business practices, especially for lawyers, auditors, and accountants. For example, lawyers have to apply the law, not just abide by it. Auditors have to apply audit rules in auditing other businesses. Management consultants work with a wide range of regulation to generate solutions for clients, including compliance advice. Architects and engineers work within the sectoral rules in construction and engineering.
45. Other EU legislation which affects particular PBS subsectors includes:
- a. Employment services firms must operate within the framework of the Agency Workers Directive (2008/104/EC), which covers the rights of temporary workers;
  - b. Intellectual property professionals work within the framework of the EU packages governing trademarks and designs (Regulation 2015/2424/EU and Directive 2008/95/EC recently recast by 2015/2436/EU on trademarks; Regulation 6/2002/EC and Directive 98/71/EC on designs). IP professionals are also affected by EU Directives regarding copyright and related rights;
  - c. Advertisers and marketers have to comply with the Misleading and Comparative Advertising Directive (2006/114/EC), which sets minimum standards for B2B advertising practice and the Unfair Commercial Practices Directive (2005/29/EC), which curbs provisions of untruthful information to consumers and aggressive marketing practices;
  - d. Architects are affected by Construction Products Regulations, which aims to ensure the reliability of information on the performance of construction products, information through harmonized European product standards and European Technical Assessments using a common technical language and uniform assessment methods;
  - e. The Alternative Dispute Resolution Directive (2013/11/EU) is relevant for resolving consumer disputes with lawyers in relation to the service they have provided/contract disputes. These and other requirements have been made through domestic legislation, including the Courts and Legal Services Act 1990;
  - f. There is a significant body of EU law relating to civil judicial cooperation which is relevant to those providing legal services, the key measures in the commercial field being the recast Brussels 1 Regulation (on jurisdiction, recognition and enforcement of civil and commercial judgments), the Rome I and II Regulations (on applicable law) and the Lugano Convention (which extends broadly similar rules to the pre-recast Brussels 1 on jurisdiction, recognition and enforcement of judgments to 3 EFTA states).
46. There are also EU rules dealing with jurisdiction and recognition and enforcement of judgments in family law. These cover matrimonial matters and parental responsibility (the Brussels IIa Regulation) and maintenance (the Maintenance Regulation).

### ***International rules and standards***

47. There are international accounting and auditing standards, which are not mandated internationally and instead must be adopted for use under the legal frameworks of individual countries. International Accounting Standards are more mature in their development and adoption than international auditing standards. They have been adopted for use in the EU and are mandated in the EU for the accounts of groups listed on an EU regulated market. New international accounting standards or any changes to existing standards must be tested via a formal EU endorsement process before they can be adopted for use in the EU.

### ***Devolved areas of responsibility***

48. General policy on most PBS is devolved in Scotland and Northern Ireland, and will be soon in Wales. Legal Services are devolved to Scotland and Northern Ireland but not to Wales. Architecture and auditing are exceptions – there are standards which apply across the UK's nations in these areas and registration requirements are also applied across the UK.
49. Although audit and accounting regulation is devolved in Northern Ireland, the legislative framework applies UK wide.
50. Regulation of insolvency practitioners is devolved to Northern Ireland but reserved for Great Britain (England, Scotland and Wales).

### **Existing frameworks for how trade is facilitated between countries in this sector**

51. The arrangements described in this section are examples of existing arrangements between countries. They should not be taken to represent the options being considered by the Government for the future economic relationship between the UK and the EU. The Government has been clear that it is seeking pragmatic and innovative solutions to issues related to the future deep and special partnership that we want with the European Union
52. The baseline for trade in services, including this sector, is the WTO's General Agreement on Trade in Services (GATS). GATS is a services-specific multilateral agreement that has been used as a basis for services liberalisation since it came into force in January 1995. All WTO Members are parties to GATS which sets out general rules, principles and obligations as a framework for trade in services; plus a schedule of commitments which set out how open and non-discriminatory parties commit to be across the service sectors covered.<sup>26</sup>

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<sup>26</sup> The UK is a member of the WTO in its own right, but its current commitments are listed in wider EU schedules.

53. GATS also sets out 'how' parties will allow services to be traded and this is split into four principal 'modes': where a product rather than a service supplier/consumer crosses a border (e.g. an architect sending architectural drawings to a client overseas); where the consumer of the service crosses a border (e.g. tourism); where the company crosses a border (e.g. a retail chain opening a new establishment in another country); and where the service provider moves (e.g. a lawyer spends nine months working in their firm's office in another country). Commitments taken by parties vary and parties can unilaterally choose to improve their GATS offers at any point (subject to a certification procedure) or lower the level of their commitments, but in order to do so they will be expected to offer compensatory concessions.
54. PBS are covered by GATS. As such, legally committed market access for the UK's PBS sector is dependent on the specific commitments listed in GATS schedules by WTO Members. In practice, this means that restrictions vary considerably, with some, such as the UK having relatively open markets and others remaining more closed.
55. A number of EU Free Trade Agreements (FTAs) include provisions on Trade in Services where, generally speaking, PBS will be covered by the cross-cutting provisions of a Services chapter. This includes the EU-Canada Comprehensive Economic and Trade Agreement (CETA) and EU FTAs with South Korea, Peru and Colombia, Ukraine and Vietnam. These look to build on the GATS baseline by expanding the commitments of EU Member States to open up their services markets to each other.
56. CETA is one of the most ambitious FTAs the EU has agreed for trade in services. For example, it contains provisions on the temporary cross-border provision of services, including extending the time individual service suppliers or professionals can stay in either the EU or Canada from six to 12 months. In CETA, however, the degree of market access varies between Canada and different Member States and parties are required to specify where market access is restricted in certain ways (e.g. economic needs tests, quantitative limits or restrictions on foreign access) and where access is discriminatory (i.e. the principle of 'national treatment' does not apply). CETA also sets out guidelines for regulators and professional bodies to negotiate mutual recognition agreements.
57. EU FTAs that include services chapters often maintain a number of restrictions on foreign companies, which can vary by Member State. For example, the restrictions in the EU-South Korea FTA in some Member States include: only allowing nationals to obtain a legal license for full admission to the Bar; requiring permanent residency before lawyers can register to practice; and restricting the rights of non-nationals to own and have equity in law firms.
58. It does, nevertheless, facilitate trade in the legal services sector, providing staged access for establishment and a specific provision that governments should encourage regulators and professional bodies to develop and recommend mutual recognition agreements.



59. The proposed Trade in Services Agreement (TiSA), of which the UK through its Membership of the EU is negotiating, is a plurilateral agreement with the aim of making further progress by liberalising trade in services between 23 parties (including the EU), with the intention that each party brings its best FTA offer on services to the negotiating table. Negotiations are currently on hold.
60. Other international agreements also include provisions for trade in PBS. For example, the bilateral US-Australia FTA facilitates cross-border trade in services, including PBS.
61. In recent FTAs that the US, Australia and Korea have agreed with other third countries, there has been a trend to include a PBS specific annex, in addition to the services chapter. These annexes tend to focus on issues of licensing and recognition of qualifications, while establishing Working Groups to help foster the development of agreements and identify professional services for consideration. The provisions here, however, have generally been non-binding.
62. There are also a number of international agreements that provide frameworks for the mutual recognition of mutual qualifications. The Trans-Tasman Mutual Recognition Agreement (TTMRA) between Australia and New Zealand entitles professionals registered in one jurisdiction to practice in the other, after notifying the local occupation-registration authority. MERCOSUR 'encourages' Members to develop norms and mutually acceptable criteria for the granting of licenses, registrations and certificates in the financial services, maritime services and transport services sectors.
63. There are also a number of existing arrangements which govern international civil judicial cooperation which is of particular relevance to the legal services sector but also more generally. The Hague Conference on Private International Law was formed to work towards the unification of the rules of private international law. It creates sets of rules, which can be applied in an international legal setting. The vehicles by which this is achieved are multilateral conventions, which promote the harmonisation of conflicting laws in a range of areas.

## **Sector views**

[This information was provided by the Government to the Committee, but the Committee has decided not to publish this section]