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Giving up limited liability for accounts exemptions

A new concept in UK company law?

I don't know whether they achieve the record for the most uses of the word "and" in the title of legislation, but the snappily-named [Companies and Limited Liability Partnerships \(Accounts and Audit Exemptions and Change of Accounting Framework\) Regulations 2012](#) break new ground in other ways.

As well as simplifying audit exemptions for small companies and making it easier to switch between IFRS and UK GAAP, the regulations grant a subsidiary an audit exemption for its individual accounts – but only if the parent company gives a guarantee of all the subsidiary's liabilities as at the balance sheet date.

There are similar exemptions for dormant subsidiaries from preparing and filing accounts at all. In effect, groups are being invited to give up the limited liability of the individual subsidiary entities as the price for avoiding an audit of the subsidiary's accounts, or to save the cost of preparing accounts for a dormant subsidiary.

If the subsidiary is material it will have to be included in the parent company audit anyway (though possibly at a higher materiality threshold). The parent company audited accounts have to be filed against the subsidiary's record at Companies House, and there are other conditions to fulfil.

Is it worth it? Parent company directors will want to think very carefully before giving the guarantee. It guarantees "all outstanding liabilities to which the subsidiary company is subject at the end of the financial year to which the guarantee relates". It includes liabilities not shown in the accounts. Those would include, say:

- future contracted liabilities, eg the rent for the whole of the remaining term of a lease, or costs to complete current sales contracts
- mis-selling liabilities or regulatory fines and penalties
- liabilities of the subsidiary under guarantees it has given to third parties
- product recall or warranty costs
- environmental clean-up costs

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- personal injury claims unknown at the time.

Parent companies may not be insured for liabilities they undertake voluntarily by way of a guarantee. Would you want to be the parent company director who exposed the parent company to unknown liabilities to shave a few quid off the audit fee?

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