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FINAL REPORT OF A FACT-FINDING MISSION  
CARRIED OUT IN  
THE UNITED KINGDOM  
FROM 04 OCTOBER 2017 TO 12 OCTOBER 2017  
IN ORDER TO  
GATHER INFORMATION CONCERNING SYNERGIES OF OFFICIAL CONTROLS  
WITH FOOD BUSINESS OPERATORS' OWN-CHECKS AND THIRD PARTY  
CERTIFICATION SCHEMES

*In response to information provided by the competent authority, any factual error noted in the draft report has been corrected; any clarification appears in the form of a footnote.*

## ***Executive Summary***

*This report describes the outcome of a fact-finding mission of the Directorate-General for Health and Food Safety in the United Kingdom carried out from 4 to 12 October 2017, as part of its planned work programme.*

*The objective of the mission was to gather information on the way and the extent to which the competent authorities take account of results of own-checks systems and third party assurance schemes in organising official controls in food of animal and non-animal origin.*

*Synergies between third party certification schemes and official controls have been in place in the United Kingdom for many years. Under the programme Earned Recognition, the Food Standards Agency recognises membership and certification for certain schemes for the purpose of reducing the frequency of official controls. Requirements of the programme and obligations of the parties involved, namely the Food Standards Agency and the scheme concerned, are laid down in memoranda of understanding signed by the parties.*

*Both the Food Standards Agency and the schemes concerned have introduced measures to ensure the reliability of the information obtained. Some good practices were identified concerning measures put in place by scheme owners or certification bodies to enhance the quality and reliability of the performance and results of their auditors.*

*The approved assurance element of the Earned Recognition programme is, to date, limited to the primary production sector; however, the Food Standards Agency is currently exploring the feasibility and possibility of extending this system to cover also the transformation sector by granting recognition to additional third party certification schemes. The system as implemented has led to reductions in the frequency of official controls, freeing resources for focusing on other areas. The degree of reduction in the frequency of official controls was not always the same across the United Kingdom, even though the same commodities were concerned. In some cases, the frequencies established, effectively mean that some food business operators will never be subject to an official control in a lifetime.*

*Apart from the formalised arrangements for Earned Recognition through membership of recognised schemes in the primary production sector, official controls are delivered on the basis of risk grading of food business operators in accordance with a scoring matrix laid down in the Food Law – Code of Practice. While this code provides for taking into account membership of food producing establishments (transformation sector) to non-recognised schemes, the allocated points do not influence the final risk categorisation in a significant manner.*

*The major food retail chains have in place their own individual firm food safety standards for their suppliers of own-label brand products. These individual standards go beyond the standards of the schemes considered as a pre-requisite for food business operators for gaining market access, and often include elements of animal welfare, environmental issues, sustainability, as well as specific product quality standards. Since these bespoke individual standards are often used for advertising purposes of own-label brand products, they fuel the competition between large food retail chains. Food retail chains compete against each other by constantly introducing new standards and requirements aimed at exceeding those of their competitors. These are subject to frequent*

*verification by means of second party audits to their suppliers.*

*Although synergies between official controls and third party certification schemes have led to a reduction of official controls and savings of resources by the competent authorities, they do not necessarily contribute to a reduction on the burden of food business operators. This is because official controls constitute only a minor part of the scrutiny the food business operators are subject to throughout a year, compared with the controls carried out on behalf of food retail chains.*

*The Food Standards Agency is currently working on a project called "Regulating our Future" aimed at redesigning the way official controls are delivered.*

*As this was a fact-finding mission, the report contains no recommendations to the competent authorities*

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Annex 1 - Legal references

## ABBREVIATIONS AND DEFINITIONS USED IN THIS REPORT

| <b>Abbreviation</b>       | <b>Explanation</b>   |
|---------------------------|--|
| APHA                      | Animal and Plant Health Agency   |
| BEIC                      | British Egg Industry Council   |
| BRC                       | Brand Reputation Compliance  |
| CB/s                      | Private Certification Body/ies   |
| DAERA                     | Department of Agriculture, Environment and Rural Affairs of Northern Ireland |
| DG Health and Food Safety | Directorate-General for Health and Food Safety of the European Commission    |
| FSA                       | Food Standards Agency  |
| FBO                       | Food Business Operator   |
| FNAO                      | Food of Non-Animal Origin  |
| FSS                       | Food Standards Scotland  |
| GFSI                      | Global Food Safety Initiative  |
| HACCP                     | Hazard analysis and critical control points                                  |
| IFSS                      | Individual firm food safety standards  |
| ISO                       | International Organisation for Standardisation                               |
| LA                        | Local Authority  |
| MANCP                     | Multi-annual national control plan   |
| MoU                       | Memorandum of understanding  |
| PAP                       | Primary Authority Partnership  |
| PFSS                      | Third party certification schemes  |
| RTA                       | Red Tractor Assurance  |
| SNCP                      | <i>Salmonella</i> National Control Programme                                 |
| UK                        | United Kingdom of Great Britain and Northern Ireland                         |
| UKAS                      | United Kingdom Accreditation Service   |

## 1 INTRODUCTION

This fact finding mission took place in the United Kingdom (UK) from 4 to 12 October 2017. The mission formed part of the Directorate-General for Health and Food Safety (DG Health and Food Safety) planned work programme and is part of a series of fact-finding missions which will be carried out in four Member States in 2017. The mission team comprised two auditors from DG Health and Food Safety and a national expert from an EU Member State.

An opening meeting was held on 4 October with representatives from the Food Standards Agency (FSA) and the Animal and Plant Health Agency (APHA). At this meeting, the objective of, and itinerary for the mission were confirmed by the mission team and the information provided by the competent authorities in response to the pre-mission questionnaire was discussed. A representative from the FSA accompanied the mission team throughout the mission.

## 2 OBJECTIVE AND SCOPE

The objective of this fact-finding mission was to gather information on the way and the extent to which the competent authorities of the UK take account of results of own-checks systems, individual firm food safety standards<sup>1</sup> (IFSS) and private sector food safety standards schemes (PFSS), more commonly referred to as third party certification schemes, in organising official controls on food of animal and non-animal origin. The mission sought to acquire an insight into the potential benefits the competent authorities consider obtaining, or not, by taking into account information available from IFSS, own-checks systems and PFSS. In addition, the fact finding mission also aimed to identify good practices as well as possible problems and limitations the competent authorities encountered, affecting the level of synergies between the official controls systems and the third party assurances.

In terms of scope, the mission focused on:

- a) Existing PFSS, IFSS and own-checks systems in order to establish their coverage and understand the type and amount of information available or potentially available for consideration by the competent authorities.
- b) Synergies between third party assurances and own-checks systems with official controls, including:
  - co-operation arrangements in place, if any;
  - mechanisms in place to ensure the suitability and reliability of the information obtained;
  - impact on the organisation of official controls, and;

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<sup>1</sup> These are standards owned and applied by individual FBOs such as, for example, large retailers. Further information on individual firm food safety standards and also on private sector food safety standards can be found in the document "*Private Food Safety Standards: Their role in food safety regulation and their impact*" of the Food and Agriculture Organisation of the United Nations, accessible at: [www.fao.org/docrep/016/ap236e/ap236e.pdf](http://www.fao.org/docrep/016/ap236e/ap236e.pdf)

- impact on the level of compliance of food business operators (FBOs).

In pursuit of this objective, the following sites were visited:

| <b>Visits / meetings</b>           | <b>Comments</b> |  |
|------------------------------------|-----------------|--|
| <b>Competent Authorities</b>       |                 |  |
| Central level                      | 2               | Opening and Closing Meeting with representatives from FSA and APHA               |
| Regional/local level               | 2               | One acting as Primary Authority and one responsible for an establishment visited |
| <b>PFSS</b>                        |                 |  |
| Standard owners                    | 3               | Two, from the primary production sector and one from the transformation sector.  |
| Private certification bodies (CBs) | 2               |  |
| <b>FBOs</b>                        |                 |  |
| Primary producers                  | 2               | For food of animal origin  |
| Food establishments                | 1               | One for FNAO   |
| Supermarket chains                 | 1               |  |

### **3 LEGAL BASIS**

This fact-finding mission was carried out in agreement with the competent authority.

### **4 BACKGROUND**

This was the second of a series of fact-finding missions to gather information on the way and the extent to which the competent authorities take account of results of own-checks systems and third-party assurance schemes in organising official controls in food of animal and non-animal origin.

The outcome of this mission series, which will include the experiences gained, any good practices identified, as well as the difficulties faced by the competent authorities which may affect the level of synergies, will be compiled in an overview report to be discussed in a workshop with all Member States.

EU consumers have growing expectations as regards the quality and safety of the food they purchase and consume.

According to a discussion paper presented and discussed at the 23<sup>rd</sup> session of the Codex Committee on food import and export inspection and certification systems<sup>2</sup>, which took place in February 2017,

*"Third party certification schemes were introduced by the food industry in response to business and global market demands to assure food safety outcomes, reduce supply chain risks, and differentiate products...."*

*Third party certification schemes allow individual companies to demonstrate the integrity of their products and production systems through conformity with a standard. Such standards often largely replicate, or incorporate, a country's national legislative requirements, or relevant internationally recognised standards...."*

Some of these voluntary standards have been created by primary producer groups or by other FBOs. Others have been developed by the retail sector, in particular by large supermarket chains. In particular, the latter have an impact on their suppliers, as a result of which, more and more FBOs, including primary producers, implement these voluntary IFSS and/or become certified under a PFSS.

The idea behind the PFSS, which are voluntary, is that if an FBO follows the structured requirements laid down in these standards (which in some cases may go beyond the minimum requirements laid down in the legislation), this should provide assurance that the particular FBO produces foods with relatively high and stable levels of quality and safety.

Some of the PFSS schemes lay down requirements that raw materials and their suppliers need to fulfil in order to qualify for the production of food in a certified establishment, requirements about the production processes and the implementation of the food safety systems based on hazard analysis and critical control points (HACCP) principles, as well as requirements concerning laboratory testing of raw materials and finished goods. Participating primary producers and other FBOs, which have been certified under a third-party assurance scheme, are subject to audits and inspections carried out by CBs appointed for that purpose by the PFSS standard owners, or the individual firm setting the IFSS.

Article 3 of Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules stipulates that Member States shall ensure that official controls are carried out regularly, on a risk basis and with appropriate frequency, so as to achieve the objectives of the Regulation. In doing so, they shall take account of amongst others, FBOs' past record of compliance with food law, the reliability of own-checks that have already been carried out and any information that might indicate non-compliance.

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<sup>2</sup> The discussion paper on Regulatory Approaches to Third Party Certification in Food Safety, presented and discussed during the 23<sup>rd</sup> session of the Codex Committee on food import and export inspection and certification systems is accessible at [http://www.fao.org/fao-who-codexalimentarius/sh-proxy/zh/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FMeetings%252FCX-733-23%252FWD%252Ffc23\\_08e.pdf](http://www.fao.org/fao-who-codexalimentarius/sh-proxy/zh/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FMeetings%252FCX-733-23%252FWD%252Ffc23_08e.pdf).

Furthermore, Article 10 of this Regulation states that official controls on feed and food shall include the examination of any control systems that FBOs have put in place, and the results obtained. This includes IFSS or PFSS.

The participation of FBOs, including primary producers in an IFSS or PFSS *de facto* generates information in the form of operators' own-checks, and of analyses or reports issued following inspections or audits carried out by the CBs to verify compliance with the IFSS or PFSS requirements, which in turn could be of value for the planning and prioritisation of official controls. This is why some Member States, with resource constraints in many competent authorities, have considered using all available information, provided it is valid and reliable, in organising and carrying out their official controls.

## 5 FINDINGS

### 5.1 EXISTING THIRD PARTY ASSURANCE SCHEMES (IFSS AND PFSS)

1. In 2015, the FSA carried out a project aiming to establish, on the basis of publicly available information on the internet, what third party assurance schemes operate in the UK. The table below presents the relevant scheme owners identified, their range of standards, as well as the sector and the commodities to which they apply. The Brand Reputation Compliance (BRC)<sup>3</sup> Global Standards and Global G.A.P are recognised by the Global Food Safety Initiative (GFSI)<sup>4</sup>.

| Scheme name                                    | Organisation scheme links to                                     | Sector             | Area covered   |
|--|--|--------------------|--|
| Dairy  | Red Tractor Assurance (RTA)                                      | Primary production | Milk production  |
| Fresh produce                                  | RTA  | Primary production | Production of fruits and vegetables  |
| Beef and Lamb                                  | RTA  | Primary production | Production of beef and lamb (livestock)  |
| Pigs   | RTA  | Primary production | Production of pigs (livestock)   |
| Poultry  | RTA  | Primary production | Production of chicken and turkey   |
| Combinable crops and sugar beet                | RTA  | Primary production | Production of crops and sugar beet   |
| NI Beef and Lamb farm quality assurance scheme | Livestock and Meat Commission (present only in Northern Ireland) | Primary production | Production of beef and lamb (livestock)  |
| Pigs   | Quality Meat Scotland (present only in Scotland)                 | Primary production | Production of pigs (livestock)   |
| Cattle and Sheep                               | Quality Meat Scotland (present only in Scotland)                 | Primary production | Production of cattle and sheep and auction markets (livestock)                   |
| British Lion                                   | British Egg Industry Council (BEIC)                              | Primary production | Production and packing of eggs   |
| Food Safety Standards                          | BRC Global Standard  | Transformation     | Manufacturing of products from raw meat through to high risk ready-to-eat foods. |

<sup>3</sup> Formerly known as British Retail Consortium

<sup>4</sup> <http://www.mygfsi.com/>

|   |  |                             |  |
|---|--|-----------------------------|--|
| Storage and Distribution Standards      | BRC Global Standard                                  | Distribution/Transportation | Distribution and transportation of food                                      |
| Agents & brokers                        | BRC Global Standard                                  | Import/Export               | Import - export of food  |
| Cattle and sheep                        | Global G.A.P   | Primary production          | Cattle and sheep production (livestock)                                      |
| Pigs standard                           | Global G.A.P   | Primary production          | Pig production (livestock)   |
| Calf and Young Beef standard            | Global G.A.P   | Primary production          | Calf and young beef production (livestock)                                   |
| Turkey standard                         | Global G.A.P   | Primary production          | Turkey production (livestock)  |
| Combinable crops standards              | Global G.A.P   | Primary production          | Production of crops  |
| Fruit and vegetable standard            | Global G.A.P   | Primary production          | Production of fruit and vegetables   |
| Poultry standard                        | Global G.A.P   | Primary production          | Production of poultry  |
| Quality Assured Bacon                   | British Meat Processors Association                  | Transformation              | Production of bacon  |
| Quality Assured Cooked Ham and Pork     | British Meat Processors Association                  | Transformation              | Production of cooked ham and bacon   |
| Quality Assured Pork                    | British Meat Processors Association                  | Transformation              | Production of pork meat  |
| Quality Assured Pork Sausage            | British Meat Processors Association                  | Transformation              | Production of pork sausages  |
| Beef and Lamb                           | Farm Assured Welsh Livestock (present only in Wales) | Primary production          | Beef and lamb production (livestock)   |
| Assured pig production                  | Genesis Good Agricultural Practise                   | Primary production          | Pig production (livestock)   |
| Chicken production                      | Genesis Good Agricultural Practise                   | Primary production          | Production, transportation and slaughter of chicken (livestock)              |
| Duck production                         | Genesis Good Agricultural Practise                   | Primary production          | Production, transportation and slaughter of duck (livestock)                 |
| Duck                                    | British Poultry Council                              | Primary production          | Producers of duck (livestock)  |
| European Seed Treatment Assurance       | Agricultural Industries Confederation                | Transformation              | Seed treatment businesses  |
| The Assured UK Malt technical standards | Assured UK Malt                                      | Transformation              | Production of malt   |
| Safe And Local Supplier Approval        | SALSA  | Transformation              | Production of food by small food manufacturers, regional and local producers |

2. According to the FSA and also FBOs met during the mission, the RTA and the BRC Global Standards schemes are the PFSS with the biggest share in terms of membership by FBOs in the primary production and transformation sector respectively in the UK. These PFSS are considered by most FBOs, in particular large food retail chains (supermarkets), as a pre-requisite for gaining market access in the UK.
3. Large food retail chains, in addition, have put in place their own IFSS covering in particular products marketed under their own-label brands.
4. According to a primary producer and the representative of the dairy establishment processing milk on behalf of the retailer met, but also according to a FBO from the transformation sector met, large retailers' IFSS have a broader scope than the standard

sectoral schemes. Their scope often includes in addition to the legal requirements and the requirements of the sectoral third party certification scheme, additional requirements e.g. on animal welfare, use of veterinary medicinal products, global environmental requirements (e.g. ban on use of palm oil in feed) and so on. Each large food retail chain carries out audits to their suppliers for verifying compliance with their own standards. These audits can be carried out by internal auditors or by CBs appointed by the food retailer for that purpose.

5. The FSA in general has little knowledge about the CBs operating in the UK. This is because any approval of schemes for Earned Recognition and cooperation within that framework goes through the scheme owners.
6. The PFSS met had different approaches as regards the authorisation of CBs to carry out controls and certification for the schemes.
7. One of the PFSS met approved a single CB to carry out the controls and certification for their scheme. According to a representative of the scheme management, this decision, namely to authorise one CB, was taken to allow for easier and faster communication between the scheme and the CB, to ensure homogeneity in the approach and assessments carried out by the CB and, to help obtain the lowest fees for the audit and certification services provided by the CB. To that end, the PFSS calls for tenders every three years.
8. A second PFSS met, which has been granted the Earned Recognition Approved Assurance status' by the FSA, has authorised five CBs to carry out audit and certification for the dairy scheme. The aim of the PFSS, according to a representative met was, on the one hand to ensure coverage with CBs all throughout the UK and Northern Ireland (two of the CBs were geographically limited either to Wales or Northern Ireland), and on the other hand to ensure that any possible differences in the assessments carried out by the different CBs remain within certain acceptable margins.
9. The third PFSS visited informed the mission team that they have reduced the number of authorised CBs for the scheme, from around 120 to around 60 now. This decision was taken because the PFSS recognised that not all CBs were performing to the expected standards.
10. The move of the PFSS mentioned in the previous paragraph, to withdraw authorisation of certain CBs due to performance issues, highlights the importance of effective integrity programmes. The mission team noted that the reliability of the certification of a PFSS depends entirely on the reliability and performance of the weakest CB authorised.

### ***Conclusions***

- |  |
|--|
| <ol style="list-style-type: none"><li>11. There are a number of different third party certification schemes in the UK, with three of them having the biggest share of FBOs. Schemes met recognised the advantages of having a limited number of competent CBs both for facilitating communication but also for ensuring the integrity and quality in their delivery of their controls.</li></ol> |
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## 5.2 SYNERGIES BETWEEN PFSS, IFSS, CBS, OWN-CHECKS AND OFFICIAL CONTROLS

### 5.2.1 Types of synergies

12. According to the FSA, there are currently three ways for FBOs to obtain Earned Recognition status. These are:
  - a. Through recognition based on FBOs certification to a PFSS recognised by the FSA.
  - b. Through taking into account the level of compliance as well as the confidence in FBOs management and control procedures.
  - c. Through FBOs' partnerships for multi-site FBOs with a so-called 'Primary authority'.

#### 5.2.1.1 Earned Recognition based on FBOs certification to PFSS recognised by FSA

13. The FSA introduced the possibility for FBOs to be subject to less frequent official controls on the basis of their certification to a PFSS for the first time in 2007. Under the initial arrangements, if an FBO is certified for one of the PFSS recognised by the FSA, then these FBOs are subject to less frequent official controls. When initially introduced in 2007, the approach concerned only primary producers in the arable and livestock sectors.
14. Under the system described in the previous paragraph, farmers (primary producers) in England and Wales certified for one of the PFSS recognised by the FSA, are subject to at least one inspection every 50 years (2% frequency), whereas non-certified farmers are subject to an inspection frequency of at least once every four years (25% frequency).
15. Scotland applies the same set of frequencies as described in the previous paragraph, however, the determining factor on whether a reduced frequency applies or not is the level of compliance during the last official control. According to information provided by the FSA, a data analysis carried out by Food Standards Scotland (FSS) on data collected from 2008 to 2011 did not reveal any relationship between membership of third party certification schemes and level of compliance. This, together with the fact that more than 90% of the farmers are certified under the schemes approved in Scotland, was the reason for FSS to consider farmer's previous degree of compliance rather than PFSS membership for the purpose of reducing the frequency of official controls,.

In May 2011, the Independent Farming Regulation Task Force published a policy report on better regulation in farming and food businesses with the title "*Striking a balance: reducing burdens; increasing responsibility; earning recognition*"<sup>5</sup>. The Task Force consisted of nine members appointed by the Minister of Agriculture and Food in their individual capacity. The intention of the individual appointment being, that none of the members represented the views of any particular sectoral organisation involved in farming. The collective experience of the members of the task force covered farming and growing, retail, food processing, conservation, private and public sector management, and regulatory implementation and enforcement.

16. This report recommended amongst others that regulators should trust businesses but this trust must be matched by industry taking responsibility. It also recommended the

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<sup>5</sup> The full report and the summary of the recommendations therein are accessible at:  
<https://www.gov.uk/government/publications/independent-farming-regulation-task-force-report>

adoption of the approach of ‘*Earned Recognition*’. The report stated that *Earned Recognition* should be regarded as “*about giving official recognition to the effective efforts made by individual and businesses in understanding legal requirements and getting things right*”. The term *Earned Recognition* has since then been adopted by the FSA, both in the area of food as also feed safety.

17. Following the publication of the above mentioned report, the FSA introduced in July 2011 an *Earned Recognition* system for dairy farms on the basis of their certification to RTA Dairy Scheme. It was a combination of factors that led the FSA to the decision to grant ‘approval’ of the scheme to formally enable it to be taken into account in the planning of official controls. A significant factor was the recognition that scheme membership represented a very high proportion of the total number of dairy farms, with the scheme being in effect a pre-requisite to trade into the main food retailers. It was recognised that, because of the scheme membership, those FBOs were already subject to significant scrutiny and often on a more frequent basis than the planned official controls. In developing a proportionate and risk-based approach to delivery of official controls, it was considered appropriate that the FSA take account of the FBO membership to the scheme, following an appropriate assessment of the robustness of the scheme.
18. As required by the FSA procedure, any PFSS wishing to obtain the approval of *Earned Recognition* status must apply to the FSA for assessment of the scheme requirements.
19. The FSA developed a set of criteria against which the requirements of a scheme applying for *Earned Recognition* are compared. These criteria had historically only been available online as part of the published, signed Memoranda of Understanding (MoUs), but following the mission they have been published<sup>6</sup> as part of a general guidance document on the FSA approach to approved assurance.
20. The criteria, which are qualitative in their nature, concern amongst other, aspects of governance for setting standards including the requirement for covering all applicable legislative requirements, aspects of compliance, certification and accreditation. They also concern requirements related to assessors’ competence and qualifications, data sharing and communications processes.
21. The mission team noted that there is no formal procedure to be followed for assessing PFSS applications for *Earned Recognition* status. According to FSA representatives, the possibility of developing such a procedure will be explored.
22. Following an application for obtaining the *Earned Recognition* status, the FSA assesses the PFSS scheme against the approved assurance criteria. A satisfactory outcome of the assessment leads to a MoU signed between the FSA and the PFSS and granting the *Earned Recognition* to the scheme.
23. The PFSS currently recognised by the FSA for *Earned Recognition* are the RTA Dairy Scheme and the Northern Ireland Beef and Lamb Farm Quality Assurance Scheme. These schemes have been assessed by the FSA and found that their requirements include all general and specific legal requirements regarding food safety and meet the criteria established by the FSA.

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<sup>6</sup> On 1 December 2017, a new webpage on approved assurance was launched on the FSA website. This includes a guidance document on the approach to approved assurance, which in turn includes the criteria against which assurance schemes are assessed.

The website is accessible at: <https://www.food.gov.uk/business-industry/farmingfood/animalfeed/earned-recognition-approved-assurance-schemes>

24. For dairy farms, certification under the RTA Dairy Scheme allows, with the exception of farms supplying raw milk to final consumers, for a significant reduction in official inspections. Non-certified farms are subject to at least one inspection by the FSA every two years. RTA Dairy Scheme certified farms though, are subject to inspections by the FSA at least once every 10 years. However, these farms are subject, every 18 months, to audits by CBs authorised by the scheme. These arrangements are in place throughout the UK with 95% of the dairy farms being RTA Dairy Scheme certified.
25. Farms supplying raw milk to final consumers are excluded from the *Earned Recognition* arrangements and are thus subject to official controls by the FSA every six months, irrespective of whether they are RTA Dairy Scheme certified or not.
26. Inspections in livestock farms in Northern Ireland are carried out by the Department of Agriculture, Environment and Rural Affairs (DAERA). Livestock farms in Northern Ireland, which are not certified under the Northern Ireland Beef and Lamb Farm Quality Assurance Scheme, are subject to 10% controls (meaning one inspection every 10 years). Livestock farms certified under the scheme are subject to 1% controls, which translates to one inspection every 100 years. The mission team noted that the frequency of inspections applied in Northern Ireland is very low and does not compare with the frequencies applicable for the same commodities in the rest of the UK (see paragraphs 14 and 15). The FSA stated that this point would be reviewed in cooperation with DAERA.
27. The FSA has a MoU with APHA for the performance of egg hygiene inspections on behalf of the FSA in England and Wales. The mission team noted that this is a synergistic approach to carrying out official controls. APHA as a control agency carries out annual animal health and egg marketing inspections to layer farms and the FSA utilises this opportunity to have APHA include as part of its visits hygiene inspections to layer farms. Hygiene inspections are carried out to about 312 layer farms each year. This approach reduces also the number of official control visits to such farms.
28. APHA has also put in place some synergies with a PFSS in combination with a delegation of some of its tasks. APHA recognised the British Lion Standard scheme of the British Egg Industry Council (BEIC) as a FBOs' control programme forming part of the UK's *Salmonella* National Control Programme (SNCP). In parallel with the recognition of the scheme for the purpose of the SNCP, APHA delegated to the only CB authorised by the scheme, the task of auditing, in farms certified under the scheme, the FBOs' own-checks sampling programme for *Salmonella* and, also that of collecting the official samples for the SNCP. The mission team noted that the CB fulfilled the accreditation requirements laid down in Article 5 of Regulation (EC) No 882/2004.

#### **5.2.1.2 Earned Recognition based on level of compliance and confidence in FBOs management and control procedures**

29. Local authorities carry out official controls on food hygiene and food standards (covering labelling, presentation, health claims and additives) in food establishments on behalf of the FSA. The frequency of the official controls they carry out is based on a risk assessment. The parameters to be taken into account and the points assigned to each parameter in order to obtain the risk rating are laid down in the Food Law – Code of Practice<sup>7</sup>. There is a different risk scoring system for food standards and food hygiene.

30. The food hygiene scoring system of the above-mentioned Code of Practice, refers to "*Level of (current) compliance*" and "*Confidence in management/control procedures*". According to the FSA, the latter concerns mainly FBOs, who are certified under a PFSS, which has not been though recognised by the FSA for *Earned Recognition* status. According to the FSA, local authority inspectors may take into account PFSS certificates for calculating the risk rating which then determines the frequency of official controls.
31. For the food hygiene scoring system, a FBO can be classified in one of five different categories (A-E). An FBO with a score above 92 (which is more or less almost half of the maximum possible points), is considered as a Category A risk, which means that official controls must take place at least every six months. Category B (score 72-91) would mean at least one official control every 12 months, Category C one every 18 months, Category D one every 24 months and finally Category E one every three years.
32. The mission team noted that the points attributed in Part 3 of section 5.6 of the Code of Practice for confidence in management/control procedures, namely values above or equal to zero, cannot influence in a significant manner the scoring system for an establishment producing high risk food with high risk processing, for instance ready-to-eat foods. Such products and processes are attributed a very high score, with only negative values for Part 3 having an influence as regards the outcome of the overall risk rating. According to FSA, the food hygiene scoring system in the Food Law Code of Practice is currently under review<sup>8</sup>.
33. In an example seen during the mission, a food producing establishment visited, producing ready-to-eat foods was classified as a food hygiene risk Category B establishment, subject to at least one official control every year. No non compliances were found during the previous official controls in this establishment. In addition, it had been awarded the highest possible grading by a major PFSS for compliance with the scheme's requirements and also had voluntarily opted for audits to be carried out fully unannounced. According to the local authority inspector met, the points attributed to the type of product, the processing method and the consumers at risk provide already the points required for the FBO to be classified as risk category B. The scores obtained for level of compliance and for confidence in the management and control procedures as a result of the PFSS certification could not influence that grading.

#### **5.2.1.3 Earned Recognition through Primary Authority Partnerships**

34. According to the FSA, the third way for a FBO to obtain *Earned Recognition*, which would affect the frequency of official controls, is through the conclusion of a so-called Primary Authority Partnership (PAP) with a local authority. The PAP as a statutory scheme has been established by the Regulatory Enforcement and Sanctions Act of 2008. This scheme is administered by the Better Regulation Delivery Office.

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<sup>7</sup> For the risk rating procedure see chapter 5.6 of the Food Law Code of Practice (England), accessible at [https://www.food.gov.uk/sites/default/files/food\\_law\\_code\\_of\\_practice\\_2017.pdf](https://www.food.gov.uk/sites/default/files/food_law_code_of_practice_2017.pdf)

<sup>8</sup> In their response to the draft mission report the CA informed that this work is well underway and consultation on changes will take place early in 2018

35. The Primary Authority Statutory Guidance<sup>9</sup> states that *'a primary authority partnership is available to a single business that is regulated by multiple local authorities, or to a business that is part of a group of businesses that are collectively regulated by multiple local authorities, where these businesses share an approach to compliance. A shared approach to compliance might be demonstrated, for example, through membership of a trade association that provides regulatory guidance, or through a franchisee relationship with a business that specifies compliance controls.'*
36. FBOs with several outlets in different geographical areas are under the responsibility of different local authorities. With the PAP Scheme, FBOs may apply to one local authority for the latter to take the role of the primary authority responsible for coordinating all dealings with the local authorities responsible to all the outlets of the FBO.
37. The FSA is exploring the checks and balances in place for Primary Authority National Inspection Strategies (where one primary authority has an overview of a multi-site business' compliance and uses this to determine the frequency of official controls at individual sites), and may make good use of business data and own controls while contributing to risk based targeting of official controls. There are currently no national inspection strategies for food and FSA is working with several primary authorities, their business partners and other stakeholders to explore how they might work in practice; this includes setting a standard for primary authorities to adhere to when establishing and operating a national inspection strategy. The current Food Law Code of Practice allows for testing of initiatives such as national inspection strategies. The next version of the Code (to be consulted on early in 2018) will allow for frequencies of official controls to be set separate to the rating score for establishments that are part of a NIS. The work to explore national inspection strategies for food started with a feasibility study.

In this FSA study, entitled "Primary Authority National Inspection Strategy Feasibility Study", the following points are mentioned:-

- "2.1. *A primary authority is well placed to generate a picture of compliance across the business' operations and to make informed decisions about what compliance checks are actually needed in order to properly regulate the business and ensure public safety.*
  - "2.2. *After considering all the information available, the primary authority could take the view that it has sufficient evidence that the business is being well managed, and consider that a lower number or a more tailored style of regulatory interventions are warranted."*
38. In other words, the Primary Authority Partnership Scheme is intended to allow the regulatory authorities, in addition to the knowledge and approval of documents and procedures, to obtain all information concerning the performance of a FBO, be it results from own-check systems or audit results from the FBO's membership of a PFSS, and to take account of this information for the risk assessment of the business. Good performers,

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<sup>9</sup> The guidance document is accessible at: <https://primaryauthorityregister.info/par/images/documents/pa-guidance.pdf>

with good co-operation with their primary authority, with good results both from official controls and third party audits should be "rewarded" with less frequent official controls.

39. Primary authorities have, according to a local authority officer met, an advisory role. Officers assigned to work with a business under a primary authority partnership assess documents and procedures of the FBO's outlets to verify compliance with the legal requirements. They are not involved in enforcement actions in relation to these outlets.
40. The mission team noted that the local authority visited during the mission is not actively collecting, as a primary authority, information in relation to the performance of the different outlets of the FBO, which would allow realising the targets set in the feasibility study for the National Inspection Strategy.
41. According to a local authority officer met and the FBO in a PAP, there are meetings to discuss issues in relation to the business at least on a monthly basis. If necessary there are interim communications via email or phone calls. These however, concern mainly the advisory side of the partnership.

According to the FBO met, data from the audits carried out by the FBO or by second or third parties are not communicated to the primary authority unless these are requested. However, such requests are rare. The particular FBO, for instance, carries out first and second party unannounced audits to each and every outlet of the business on a quarterly basis.

The mission team noted that access to such data, when taken together with:

- knowledge of the procedures put in place by the FBO;
- confidence in the reliability of such procedures (which had been assessed by the primary authority), and;
- compliance with the legal requirements;

could significantly contribute to reducing the risk category of a FBO and consequently the frequency of official controls.

Without the primary authority having access to this data or regularly requesting it from FBOs, the benefits of utilising such information for risk assessment and a reduction in the frequency of interventions cannot be achieved.

42. The mission team found that the current understanding by the local authorities of their role as primary authority, namely as being only of an advisory nature, may prevent them from gathering compliance related information, as this is outwith their role as an advisor.
43. The mission team noted also the following:
  - a. FBOs can select the local authority to apply to. They are not restricted to selecting the local authority responsible for the headquarters of the business or any other local authority responsible for at least one of the outlets. This might not always contribute to obtaining the full picture of the FBO's operations.

- b. The contracts signed between the FBOs and their primary authority are developed by each local authority individually. There is no standardised contract model defining the scope, obligations and rights of the parties involved in the PAP. This could lead to different local authorities setting different priorities for their role as primary authority, which might not always align with the FSA's priorities.
  - c. The fees charged for the advisory services to FBOs are based on hours of work. It is up to the FBO to decide how many hours would be needed on an annual basis to be included in the contract. If the hours under contract are used, top-up hours can be purchased by the FBO. It is also up to the FBO to decide whether to include in the contract provisions for travelling costs and subsistence expenses for primary authority staff, should visiting facilities in other regions be required for providing advisory services. According to a local authority officer met, if no travelling expenses are foreseen in the contract, then the advisory role is limited to documentary assessment of the processes and procedures submitted by the FBO. Thus, the primary authority cannot form an opinion or picture concerning the implementation of the procedures across the FBO's outlets.
44. According to an FBO met, the added value currently gained from participation in a PAP, is the assurance and confidence obtained that the procedures and processes developed and implemented by the FBO are in compliance with the legislation.
45. According to the same FBO, the PAP did not yet contribute to a reduction in the official controls received by the local authorities responsible for the other outlets of the business.
46. According to the FBO met, his vision/expectations resulting from participation in a PAP would be that:
- a. official controls carried out by local authorities to the different outlets of the business focus on areas that have not been subject to thorough assessment by the primary authority;
  - b. the local authorities focus their official controls on the practical implementation of the procedures assessed by the primary authority instead of repeatedly reassessing these already assessed procedures;
  - c. the discrepancies observed between assessments made by the different local authorities are minimised, and;
  - d. the frequency of official controls is reduced.
47. The mission team noted however, that the full potential of a PAP as is envisaged in the National Inspection Strategy feasibility study has not, to-date, been explored. The way the PAP Scheme is currently implemented by local authorities, namely as an advisory role, not availing of internal and external data in relation to compliance, does not allow for exploring the full potential of the scheme. In addition, should primary authorities in the future avail of data that would allow them to confidently adjust the risk categorisation of FBOs, the Code of Practice would need to be amended in a way to cater for this knowledge and this level of confidence. Primary authorities fall currently under Section 5.6, part 3 of the Code of Practice. As a result, as described also in paragraph 32, the

weighting currently attributed for participation in the scheme may not be sufficient to allow for adjustments to the risk category.

48. The local authority officer met explained, that the fact that different facilities, different products or different processes may be in place in the different locations/outlets of a FBO, does not prevent nor is a negative factor for a PAP to be established; only the workload and the complexity of the services provided will be impacted in such a case.
49. The local authority visited has, according to an officer met, eight PAPs in place with FBOs, and has almost reached the limit in terms of its capacity to carry out such activities.
50. The primary authority communicates back also once a month data of interest for the FBO. These data concern information in relation to enquiries submitted from other local authorities as regards the outcome of official controls or any other enquiries, complaints etc. This potentially enables the food safety managers at headquarter levels of multi-outlet FBOs to identify trends or issues in relation to the hygiene at certain outlets, and initiate timely actions to address them.

### ***Conclusions***

51. The *Earned Recognition* system based on FSA recognition of certain third party certification schemes is the only UK system with the arrangements on synergies between official controls and the PFSS being formalised and laid down in MoUs.
52. Certifications of other non-FSA-recognised schemes, FBOs own-checks or PAPs do not contribute to a significant reduction in the risk grading of FBOs and the frequency of official controls is not substantially impacted for participants in such schemes.
53. Information sharing by the competent authority with FBOs with multiple locations, as currently takes place under PAPs can contribute towards helping FBOs identifying trends and tackling issues which could potentially affect food safety.

## ***5.2.2 Cooperation arrangements and mechanisms in place for information sharing***

### ***5.2.2.1 Third party certification schemes***

54. As already mentioned in the previous section (see paragraphs 23 and 24), formalised arrangements of *Earned Recognition* (e.g. dairy farms) are based on MoUs signed both by the FSA and the scheme concerned. The requirements for communication and information sharing are laid down therein.
55. The MoUs include a specific annex in relation to “Data Management”. This annex specifies in detail which information the FSA should have direct access to, and what kind of information should be provided to the FSA and at what intervals. The information shared concerns the FBOs' membership of the schemes, basically whether or not an FBO is member of the scheme and their membership status (active or suspended). It also concerns results of the management of the assessment programme/process, e.g. fulfilment

of the assessment schedules, training initiatives, United Kingdom Accreditation Service (UKAS) assessments of CBs, data in relation to monitoring of the performance of individual CBs and auditors, as well as data on the performance of scheme members. The mission team noted that the fact that all obligations for co-operation and information exchange between the parties are written in detail into the MoUs signed by both parties constitutes a good practice for clarifying what each party's obligations are, thereby contributing to the fulfilment of these obligations.

56. One of the elements included in the MoU concerns quarterly meetings between the FSA and the scheme concerned. These meetings are used for analysing and assessing the data collated by the PFSS in relation to the outcome of their audits, which helps fine-tuning of the scope of interventions and readjusting if necessary the planning and delivery of the official controls, contributing thus to constant improvement of the scheme.
57. Additionally, authorised CBs are obliged to report to the schemes, and the schemes in turn to the FSA, about any issue identified which could pose a serious risk to public or animal health.
58. According to the FSA and representatives of one approved PFSS met, the information exchange between the scheme and the FSA is smooth and follows the provisions laid down in the MoU.
59. The mission team noted that neither the scheme owner, nor the FSA receive individual assessment reports drafted by the CBs. According to a representative of the scheme, such reports can be requested from the CB at any time however, such reports can never be communicated to the FSA without the consent of the FBO assessed.

#### **5.2.2.2 Individual firm food safety standards and own-checks systems**

60. There are no arrangements in place for information sharing with any IFSS as these are not currently considered by the FSA for the purpose of *Earned Recognition*.
61. As most of the FBOs with IFSS systems in place are large food retail chains with several outlets at different locations, the local authorities would have the opportunity to establish cooperation arrangements for sharing food safety and performance/compliance related data within the arrangements of PAPs.
62. As already mentioned in paragraph 47, primary authorities do not gather and utilise such information for the purpose of planning and prioritising official controls, though FSA is working with several PAPs to explore how this can happen. An FBO met during the mission, in a PAP with a local authority stated that it would not have any objections to share data with the primary authority concerning the results of audits or other control activities they carry out, either on their own outlets, or on their suppliers or on products sold in store. The FBO met stated that they carry out unannounced first and second-party audits to all of their outlets on a quarterly basis and audits or third-party audits to their suppliers.

63. In addition, as explained by the FBO, there is an extensive sampling plan in place focusing on pesticides, histamine, acrylamide, microbiological parameters and other areas of compliance, including fish and meat species characterisation, which is considered complementary to their normal supplier-focused Due-Diligence Scheme, which is designed to test final products but also raw materials from all suppliers at launch and then at a frequency determined by risk assessment.
64. The mission team noted that all the above data from operator's own-checks could be used, not only for risk grading of the outlets and consequently for better targeting of the official controls to such FBOs, but also for better targeting of official sampling and official controls to other FBOs.

### **Conclusions**

65. There are formalised arrangements in place for communication and information sharing with the PFSS currently recognised by FSA for the purpose of the *Earned Recognition* system. Monthly meetings between FSA and the recognised schemes allow both the FSA and the PFSS to jointly assess the progress and the outcome of their controls and adjust/ fine-tune where necessary.

#### **5.2.3 Mechanisms to ensure suitability and reliability of the information**

66. The mission team noted that several mechanisms have put in place, not only by the FSA but also by the scheme owners, to ensure the validity and reliability of the information obtained.
67. One of the measures put in place concerns the FSA approval of schemes for *Earned Recognition* purposes. All schemes willing to obtain approval for *Earned Recognition* must apply to the FSA in order to have the scheme assessed against a set of specific criteria developed by the FSA for that purpose. This is a key element for the FSA to ensure that the scheme fulfils the legal requirements and the criteria established by them.
68. As mentioned in the previous paragraph, the FSA developed a set of criteria against which the PFSS applying for *Earned Recognition* status are assessed. These cover six key areas<sup>10</sup>:
- a. The standard setting, including scheme governance, standards, legislation and the risk-based approach for standard setting.
  - b. Compliance and certification
  - c. Assessment process
  - d. Assessor authorisation/competence
  - e. Standard mapping
  - f. Data sharing and communications

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<sup>10</sup> The FSA Criteria for the Approval of Industry Assurance Schemes for *Earned Recognition* are accessible at: (Note: The link will be provided by FSA as soon as these criteria are published on the website. Currently they are only attached to the signed MoUs).

69. Once the PFSS assessment is satisfactorily concluded, a MoU is signed by FSA and the scheme concerned, which foresees quarterly 'governance meetings' aimed at reviewing specific indicators. These concern indicators for verifying confidence in the assessment process, ability of the scheme to deliver standards, confidence in compliance with standards and data sharing. In addition, according to the FSA, these meetings are also used for analysing information on non-compliances found in order to identify trends, which would necessitate adapting official control plans.
70. The scheme owner of the FSA recognised scheme met takes measures to ensure that only competent and well trained auditors are used by the CBs.
71. According to the scheme owner, all CB auditors authorised to carry out controls for the RTA Dairy scheme must undergo a training process before obtaining approval to carry out any assessments for the scheme. The process, as well as the contents of the training courses is the responsibility of the scheme owner.
72. The training process includes online courses prepared by the scheme owner as well as exams, which are also prepared by the scheme owner. According to the representative of the scheme owner, exams are computer-based multiple choice questions, however, the pass mark is set very high (88%), in order to allow for the selection of the best candidates.
73. After passing the scheme exams and before being authorised to carry out assessments on behalf of the scheme, candidate auditors must accompany and shadow at least three audits, carried out by senior auditors in order to observe them perform the assessments. The next step in the training process requires candidate auditors to lead three audits under the supervision of senior auditors, for the latter to assess their performance and degree of readiness. The final step in the practical training procedure consists in the candidate auditor being witnessed during an audit by the scheme manager. According to the representative of the scheme, this intensive training aims at ensuring that the scheme auditors are trained to the highest standard.
74. The mission team noted that CBs authorised to carry out audits and certification by the PFSS met, were all accredited by UKAS to the standard ISO 17065 - '*Conformity assessment -- Requirements for bodies certifying products, processes and services*'. The training programme including the assessment of the competence of the auditors includes witness audits but also headquarter audits to CBs are subject to verification by UKAS as part of the accreditation to this particular ISO standard.
75. It was also noted, that a CB, which has been delegated by APHA the task of carrying out sampling for *Salmonella* testing in laying farms certified under the British Lion scheme, was accredited to ISO 17065 as well as to ISO 17021 '*Conformity assessment - Requirements for bodies providing audit and certification of management systems*'.
76. The mission team noted that having the entire training process under the control of the scheme with an intensive supervised preparation of the auditors on the practical aspects and implementation of the audits is a good practice which increases the probability that all auditors will carry out their audits and assessments within the same margins of

delivery, leading thus to more homogenous approaches and assessments between the different auditors authorised for the scheme.

77. In order to strengthen the homogeneity of the approaches by the auditors, the scheme owner organises once a year so-called 'calibration trainings', in which all approved auditors are obliged to participate. These calibration trainings are used for discussions about interpretation and handling of particular cases, with which the auditors had been confronted during the previous year.
78. According to the representative of the PFSS met, authorised auditors continue to be assessed in their performance and they are also subject to further witness audits. According to the scheme representative, within the last 18 months, all authorised auditors under this scheme were subject to a witness audit.
79. The FSA has also put in place a system of witness audits to verify the performance of auditors carrying out audits for PFSS with *Earned Recognition* status. According to the FSA, this system foresees one witness audit per year for every one of the five CBs authorised by the scheme owner. The mission team noted though, that the FSA does not have any influence, neither on the logistical arrangements (including the selection of the farm to be visited) nor on the assessor to be witnessed. All arrangements are met by the scheme owner, but the aim, according to FSA and the scheme representative, is that every year different assessors are subject to such witness audits.
80. Both CBs met stated that they have in place a system to rotate the auditors approximately every five years. Taking into account the audits for the dairy scheme are carried out every 18 months, this means that can only assess the same farm up to three times in a row.
81. The mission team identified also some good practices put in place by third party certification schemes or CBs which can also contribute to ensuring the reliability of information obtained.
  - a. A PFSS met during the mission, utilises information about the size and throughput of FBOs to establish minimum duration the CB audits should take. According to the PFSS representative this is to prevent CBs carrying out too short and/ or superficial audits.
  - b. A supervisor of a CB met explained, that the information technology systems of the CB do not allow an audit for the scheme with *Earned Recognition* to be considered as closed if not all fields and questions of the checklist are answered. This measure, according to the supervisor, ensures that the auditors will pay attention to cover all necessary topics during their audits.
  - c. A PFSS visited during the mission includes in the standard requirements that farmers should carry out self-auditing every six months. The first audit is carried out by the farmers alone, the second audit, six months thereafter, should be witnessed by a representative of the purchaser receiving the products. The third audit is carried out by the CB in the framework of the auditing and certification for the scheme (audits every 18 months). According to scheme representatives and also farmers met, the self-audits function as a reminder to the farmers and staff of the requirements of the scheme and

their obligations. They also act as a tool for training farm staff allowing them to learn what and why something is required under the scheme as well as how and when a check is to be done and where the relevant documentation is to be found or kept.

- d. The PFSS recognised by FSA for *Earned Recognition* authorised five CBs to carry out the audits and assessments for the RTA Dairy scheme. However, it is not a farmer's decision which of the five CBs carries out the task. It is the first purchaser of the milk who decides and appoints the CB to carry out the scheme audits on the farm on his behalf. The farmers are only called to cover the fees charged by the CBs. This approach ensures that farmers cannot resort to being assessed by a CB, which they consider convenient. In addition, since the CBs are appointed by the purchasers of the products, it is in their interest to ensure that the reputation of their customers is not put at risk by being too lax with their assessments.

#### ***5.2.4 Elements with potential negative impact on the reliability of the information***

82. The FSA requires recognised PFSS for *Earned Recognition* to carry out their controls where possible unannounced or with as little notice as possible. The mission team noted that CBs carrying out audits and certification for different PFSS announce most of their audits (95%), in particular in the primary production sector, including for those which have *Earned Recognition* status. The announcement time ranges from two days to two months. Unannounced audits are normally carried out to approximately 5% of the FBOs or following complaints. According to the CBs, the reason why audits are announced is to make sure that key personnel and documents are available on-spot during the audit.
83. The mission team noted the advance notice given to the farmers by the CBs met does not reflect the FSA requirement for unannounced audits or with as little notice as possible.
84. In the view of both the mission team and FBOs met, the fact that CBs audits are mostly announced, often long in advance, does not contribute to obtaining the real picture about the regular day to day practices of the FBOs. This is because FBOs tend to prepare and clean the facilities once they have been given the advance notice for the audit.
85. A similar view was reflected in an FSA inspector's report following a witness audit of a CB auditor. The inspector writes in his report comparing the FSA inspections and the scheme audits: "*The main difference between the two types of inspection is the announced nature of the scheme's inspection. On this occasion, the advanced notice had resulted in fewer hygiene and record related non-compliances than might typically be seen on an average unannounced inspection...*"
86. In 2015, a PFSS covering the transformation sector for food, carried out a study on unannounced audits<sup>11</sup>. This study was triggered by the decision of a major food retail chain to require their suppliers to be subject to announced audits under the said PFSS. One of the conclusions of the report, reflects the views presented in paragraphs 84 and 85. This reads: "*Media, public opinion and many customers have long questioned the*

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<sup>11</sup> The study is accessible at: <https://www.brcglobalstandards.com/media/27306/white-paper-study-of-brc-unannounced-audits.pdf>

*announced nature of most audit protocols, expressing their concerns that they may not be an accurate representation of the true operational state of a manufacturing site. This study of unannounced audits meets customer expectations and where sites make the cultural changes required have no deleterious effect on grading."*

87. According to the new requirement introduced by one major food retail chain, all FBOs wishing to continue supplying their products to the retailer must be subject to announced audits by the relevant PFSS. A representative of a PFSS met stated that since this requirement was introduced about 50% of the scheme members (FBOs from the transformation sector) have voluntarily requested to be subject to unannounced audits.
88. The PFSS representative expects that other food retail chains will follow with similar requirements on unannounced audits, which will increase further the number of FBOs opting for them.
89. To distinguish between announced and unannounced audit, the PFSS visited during the mission have introduced on the certificates, next to standard's grade obtained by the FBO, a plus symbol (+), which reflects the fact that the audits to the particular FBO are unannounced.
90. The scheme representative met stated that the unannounced audits will remain, at least for the time being, a voluntary element of the scheme.
91. In order to cater for the increasing number of requests for unannounced audits and to facilitate the decision of FBOs, the PFSS met developed and provides two different options for unannounced audits. Option 1 foresees entirely unannounced audits; option 2 foresees unannounced inspections on the production floor but announced documentary audits. The mission team considers the initiative of the scheme to offer two different options for unannounced audits as a positive element. In particular, option 2 voids any reservations or excuses presented by FBOs that audits must be announced in order to ensure key persons and documents will be available.

## Conclusions

92. Both the FSA and third party certification schemes have put a number of measures in place to ensure the reliability of information. These include amongst others pre-recognition assessment of the schemes by FSA, thorough theoretical and practical training of CB auditors on a scheme's requirements, organised and delivered by the scheme and, witness audits of CB auditors both from the FSA and the schemes owners.
93. Some good practices were identified aimed at increasing the quality and the reliability of results obtained from CB audits. These concerned the establishment by a PFSS of the minimum duration of a CB audit based on the size of each FBO aiming to prevent short and superficial audits by CBs, and the IT systems of CBs requiring auditors to introduce a reply to every question on the checklists before an audit can be flagged as closed.
94. The fact that FBOs are not free to choose a CB within a scheme with *Earned Recognition* status contributes to increasing the reliability of the results as the customers of the CBs are the first buyers of the FBO's products and not the FBO.
95. Nevertheless, the fact that audits for schemes with *Earned Recognition* status are mainly announced, with advance notices ranging from two days to two months, can negatively affect the reliability of information and void the effect of other measures which have been put in place aimed at ensuring reliability.

### 5.3 IMPACT OF SYNERGIES

#### 5.3.1 Impact on planning and prioritisation of official controls

96. The system of *Earned Recognition* on the basis of recognising certification of certain PFSS for the purpose of modifying the level of controls by the FSA and local authorities has led to a reduction in the number of interventions carried out by FSA and local authorities.
97. In the primary production sector for crops and meat, the *Earned Recognition* system led to a 90% reduction in the number of annual official controls required by the local authorities for farms certified under a recognised scheme. With the exception of beef and lamb farms in Northern Ireland, farms certified for the FSA recognised schemes are subject to one official control every 50 years (2%); non-certified farms are subject to one official control every four years (25%).
98. For reasons which are not obvious to the mission team, beef and lamb farms in Northern Ireland certified for the particular scheme are subject to one official control every 100 years (1%), compared to once every 50 years for the rest of the UK. The non-certified beef and lamb farms there are subject to one official control every 10 years (10%) compared to one every four years for the rest of the UK.

99. Official controls in dairy farms are carried out by FSA inspectors. According to the *Earned Recognition* RTA Dairy scheme, farms certified for the FSA recognised scheme, which do not supply raw milk to final consumers, are subject to a CB audit every 18 months and every 10 years subject to inspections by FSA. However, if non-compliances are identified during official controls, the inspection frequency is raised so that non-compliant farms are subject to official controls every two years or every six months depending on the severity of the non-compliances. Non-certified farms are subject to FSA inspections every two years.
100. The mission team noted that the implementation of the *Earned Recognition* RTA Dairy Scheme led to resource savings for the FSA. According to a recent calculation made, approximately 3,406 less visits per year are required to be carried out by FSA to dairy farms, as a result of the implementation of scheme.
101. The recognition of FBO own-checks, foreseen in the Food Law Code of Practice or the certification to other non-FSA-recognised schemes for *Earned Recognition* purposes or the PAPs, have little or no impact on reducing or refocusing of official controls and no impact on sampling rates at individual establishments. This is because the points allocated for confidence in management and control systems through membership to PFSS do not allow in certain cases for significant changes in the risk categorisation. In addition, there is no sharing and utilising of information generated by the FBO own-check systems for risk assessment and prioritising of official controls for FBOs in PAPs.

### ***5.3.2 Impact on food business operators and impact on compliance***

102. According to FBOs met, certification under a PFSS such as BRC Global Standard or RTA is a minimum requirement for them for gaining market access in the UK. Access to the UK market is very limited for uncertified FBOs.
103. However, as the FBOs met explained, certification to these standards alone is often not enough, because most of the large food retailer chains create and impose their own additional requirements going beyond the requirements of the “standard” PFSS (see paragraphs 3 and 4).
104. Because of these additional requirements by the food retail chains, FBOs are, in addition to inspections or audits by the competent authorities or the “pre-requisite” PFSS for gaining market access, subject to audits and inspections by every retailer to whom they supply products.
105. According to the FBOs met, between all the controls they are subject to, either from the competent authorities, the PFSS or the food retailers’ IFSS, there is an overlapping in the scope ranging from 70 to 80%.
106. The mission team noted that the biggest burden to FBOs is actually not posed by the official controls or the audits carried out by the PFSS. More frequent and more intensive are, according to the FBOs met, the controls and audits carried out on behalf of large

food retail chains for verification of their own standards. The burden is the higher, the more large retailers an FBO supplies.

107. According to the FBOs met, they are the ones to pay the costs of the CBs for the audits carried out on request of the retailers' IFSS. The mission team noted that FBOs are put under pressure by the retailers, who require them to accept and pay for any number of controls the retailer deems necessary should they want to supply, or continue to supply products to the retail chain.
108. The mission team noted that one of the FBOs met, has been visited for inspections and audits 55 times in one year. Out of these 55 visits, one was attributed to an official control by the competent authority and one to an audit for the "pre-requisite" scheme for the transformation sector. All other visits (53) were attributed to food retailers' standards.
109. The mission team noted that under the circumstances described in the previous paragraphs of the current section, a synergistic reduction in the frequency of the official controls would not lead to any noticeable relief or reduction to the burden for FBOs. Only the competent authority can gain from potential synergies.
110. According to FBOs met, the race between the large food retail chains continues and keeps pushing for a few additional requirements beyond their competitors' standards, which are mainly then used for advertising purposes.
111. In relation to the impact of third party certification schemes on the performance and compliance of FBO, FSA stated that because of the long tradition of such schemes in the UK, the high percentage of membership of FBOs in such schemes for many years and, the generally satisfactory level of compliance of FBOs in the UK, it is not possible to conclude whether the level of compliance was due to private schemes or due to other reasons.

### **Conclusions**

112. Synergies of official controls with third party certification schemes have resulted, in particular in the cases of formalised arrangements and granting by the FSA *Earned Recognition* status, in a reduction in the number of official controls carried out by the FSA and the local authorities.
113. However, the impact of the synergies and the resulting reduction of official controls on FBOs is, in terms of reduction of the burden, negligible, as the highest numbers of audits and controls the FBOs are subject to are mandated by the major food retail chains for verification of their own standards.

### **5.4 EXPERIENCES GAINED - LESSONS LEARNED**

114. According to FSA, the sharing of information between the competent authorities and PFSS is a critical component of any potential *Earned Recognition* arrangements.

115. In the early phases of *Earned Recognition* arrangements for the dairy sector, there were, according to the FSA, some difficulties around the sharing of data between the recognised scheme and the FSA. These were related to personal data protection and commercial secrecy issues. According to the FSA these problems have now been resolved.

116. According to the FSA, the area of co-operation that now needs strengthening, is the sharing of data when non-compliances in FBOs certified for RTA Dairy scheme, are found, either by the FSA or by auditors working on behalf of the scheme. This communication is vital because ultimately the enforcement that may be necessary is still the responsibility of the competent authority.

#### **5.5 PLANNED/PROPOSED DEVELOPMENTS TOWARDS SYNERGIES BETWEEN THIRD PARTY ASSURANCE SCHEMES, OWN-CHECKS SYSTEMS AND OFFICIAL CONTROLS**

117. The FSA is currently developing a new programme for the delivery of official controls. This programme is called ‘Regulating our Future’<sup>12</sup>. It is planned to be rolled out in two phases. The first phase will be completed by March 2019 with the the UK's exit from the EU. The second phase of the development is planned to be completed in 2020, from which point implementation of the new project will begin.

118. According to the FSA, this new programme is working towards a new model for food regulation with an enhanced role for third party certification schemes. The FSA recognises that this will require the development of robust standards that will need to be officially verified.

119. According to information available on the FSA's website, the new programme will be based on the following five principles:

- a. *Businesses are responsible for producing food that is safe and what it says it is, and should be able to demonstrate that they do so. Consumers have a right to information to help them make informed choices about the food they buy - businesses have a responsibility to be transparent and honest in their provision of that information.*
- b. *FSA and regulatory partners’ decisions should be tailored, proportionate and based on a clear picture of UK food businesses.*
- c. *The regulator should take into account all available sources of information.*
- d. *Businesses doing the right thing for consumers should be recognised; action will be taken against those that do not.*
- e. *Businesses should meet the costs of regulation, which should be no more than they need to be.*

120. In 2013, FSA appointed Greenstreet Berman<sup>13</sup> to look more widely at the scope for recognition of membership of PFSS. The study aimed to explore the application of

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<sup>12</sup> More detailed information about the programme can be obtained at the dedicated FSA website: <https://www.food.gov.uk/enforcement/regulation/regulating-our-future>

<sup>13</sup> The report with the title “Assessment and comparison of third party assurance schemes in the food sector: Towards a common framework. Final report for the Food Standards Agency CR2435 R2 V8” is accessible at: <https://www.food.gov.uk/sites/default/files/835-1->

schemes to commodities and parts of the farm to fork chain other than primary production, such as catering, processing and retail.

121. Since the publication of the above-mentioned study, several projects<sup>14</sup> have been undertaken or are currently being run by the FSA aimed at exploring ways on how data from PFSS could inform local authority interventions and if the data generated by first and second party audits (for instance audits carried by large food retail chains or by appointed CBs on their behalf) could inform the assignment of ratings under the Food Hygiene Rating Scheme.
122. In addition, the FSA carried out a pilot project with one of the major PFSS covering the transformation sector. The said project, the report of which was published in October 2017<sup>15</sup>, aimed at exploring the feasibility of third party audits, carried out on FBOs in the framework of their membership to the scheme, being taken into account to inform the frequency of official controls.
123. In relation to the primary authorities and the role these can play in the ‘Regulating our Future’ programme, the FSA carried out a feasibility study on the ‘Primary Authority National Inspection Strategy’. The results of the study were published in September 2017<sup>16</sup>. According to the above mentioned study:
- A national inspection strategy could be put in place by a primary authority in relation to the activities of a partner business (via an inspection plan), which controls the number of proactive visits across all of the premises operated by the business. Such a programme would benefit local authorities by allowing them to free up resources for dealing with other establishments which may pose a greater risk.*
124. Building on the feasibility study mentioned above, the FSA is currently implementing a project, which involves eight primary authorities. The project deals with the availability and utilisation of information on FBO performance and compliance. The outcome of the project will be taken into account for developing the new Primary Authority National Inspection Strategy, which will be part of the ‘Regulating our Future’ programme.
125. The Food Law Code of Practice is currently under review and will be consulted on in early 2018. Proposed revision includes the introduction of a negative weighting to the risk rating scoring system. This will impact on the nature, frequency and intensity of official controls at compliant establishments that maintain suitable certification status with an FSA recognised PFSS.

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1534\_GSB\_CR2435\_3rd\_Party\_Assurance\_Scheme\_R2\_V8\_FCA.pdf

<sup>14</sup> The findings from two initial exploratory projects can be found at <https://www.food.gov.uk/news-updates/news/2017/16046/regulating-our-future-assurance-studies-published>.

<sup>15</sup> The report is accessible at: <https://www.food.gov.uk/sites/default/files/fsa-brc-report-oct17.pdf>

<sup>16</sup> The report of the feasibility study is accessible at: <https://www.food.gov.uk/sites/default/files/nis-feasibility-study.pdf>

## 6 OVERALL CONCLUSIONS

Synergies between PFSS and official controls have been in place in the UK for many years. Under the programme *Earned Recognition*, the FSA recognises membership and certification for certain schemes for the purpose of reducing the frequency of official controls. Requirements of the programme and obligations of the parties involved, namely FSA and the scheme concerned, are laid down in MoUs signed by the parties.

Both the FSA and the schemes concerned have introduced measures to ensure the reliability of the information obtained. Some good practices were identified concerning measures put in place by scheme owners or certification bodies to enhance the quality and reliability of the performance and results of their auditors.

The approved assurance element of the *Earned Recognition* programme is, to date, limited to the primary production sector; however, the FSA is currently exploring the feasibility and possibility of extending this system to cover also the transformation sector by granting recognition to additional third party certification schemes. The system as implemented has led to reductions in the frequency of official controls, freeing resources for focusing on other areas. The degree of reduction in the frequency of official controls was not always the same across the UK, even though the same commodities were concerned. In some cases, the frequencies established, effectively mean that some FBOs will never be subject to an official control in a lifetime.

Apart from the formalised arrangements for *Earned Recognition* through membership of recognised schemes in the primary production sector, official controls are delivered on the basis of risk grading of FBOs in accordance with a scoring matrix laid down in the Food Law – Code of Practice. While this code provides for taking into account membership of food producing establishments (transformation sector) to non-recognised schemes, the allocated points do not influence the final risk categorisation in a significant manner.

The major food retail chains have in place their own IFSS for their suppliers of own-label brand products. These individual standards go beyond the standards of the schemes considered as a pre-requisite for FBOs for gaining market access, and often include elements of animal welfare, environmental issues, sustainability, as well as specific product quality standards. Since these bespoke individual standards are often used for advertising purposes of own-label brand products, they fuel the competition between large food retail chains. Food retail chains compete against each other by constantly introducing new standards and requirements aimed at exceeding those of their competitors. These are subject to frequent verification by means of second party audits to their suppliers.

Although synergies between official controls and third party certification schemes have led to a reduction of official controls and savings of resources by the competent authorities, they do not necessarily contribute to a reduction on the burden of FBOs. This is because official controls constitute only a minor part of the scrutiny the FBOs are subject to throughout a

year, compared with the controls carried out on behalf of food retail chains.

The FSA is currently working on a project called "Regulating our Future" aimed at redesigning the way official controls are delivered.

## **7 CLOSING MEETING**

A closing meeting was held at the FSA headquarters in London on 12 October 2017. The mission team presented the findings of the mission. The representatives of the FSA acknowledged the findings and highlighted the importance of this series of missions to gain knowledge in the framework of developing more efficient and effective official controls.

## ANNEX 1 – LEGAL REFERENCES

| Legal Reference | Official Journal  | Title  |
|-----------------|---|--|
| Reg. 178/2002   | OJ L 31, 1.2.2002, p. 1-24  | Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety   |
| Reg. 854/2004   | OJ L 139, 30.4.2004, p. 206, Corrected and re-published in OJ L 226, 25.6.2004, p. 83 | Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption  |
| Reg. 882/2004   | OJ L 165, 30.4.2004, p. 1, Corrected and re-published in OJ L 191, 28.5.2004, p. 1    | Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules  |
| Reg. 2017/625   | OJ L 95, 7.4.2017, p. 1–142   | Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)Text with EEA relevance. |

